

EXHIBIT B.110

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - - - -	- - - - -	+
MARK I. SOKOLOW, et al,		
Plaintiffs,		
vs.		No. 04 Civ 00397
THE PALESTINE LIBERATION		(GBD) (RLE)
ORGANIZATION, et al,		
Defendants.		
- - - - -	- - - - -	+

Deposition of Glenn E. Robinson, Ph.D.

Washington, D.C.

Tuesday, October 29, 2013

9:00 a.m.

Reported by:

Laurie Bangart-Smith, RPR, CRR

Ref. No.: 10549

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Deposition of
GLENN E. ROBINSON, Ph.D.

Held at the offices of:

Arnold & Porter, LLP
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Washington, D.C. 20004
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Taken pursuant to notice, before Laurie
Bangart, Registered Professional Reporter,
Certified Realtime Reporter, and notary public in
and for the District of Columbia.

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PROCEEDINGS

GLENN E. ROBINSON, Ph.D.,

having been first duly sworn, testified
upon his oath as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFFS
BY MR. YALOWITZ:

Q Okay, thank you for coming. Could you -- I
wanted to ask you some things about your background
and your work.

Let's pause without being on the record.

(Discussion was held off the
record.)

BY MR. YALOWITZ:

Q Okay.

You graduated from Cal Berkeley in 1982?

A Yes, with an undergraduate degree.

Q And did you grow up in California?

A I did.

Q Where?

A I was born in Berkeley, raised in Lafayette.

Q Where is Lafayette; the Bay Area?

A Bay Area, east suburb.

Q And what did you, what did you major in at
Cal?

A Undergraduate, I majored in political

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amount of time in Israel, Gaza and the West Bank?

A Mm-hmm.

Q Do I have that right?

A Yeah, throughout my 20s and 30s, yeah.

Q Was that -- were you doing field work as
part of your studies?

A A combination of things. When I first went,
it was the fall of 1980, and I was doing a junior year
abroad at the American University in Cairo, and we
took -- Malcolm Kerr was the professor that led the
University of California students, and so he had set
up a series of interviews for our group, there were
probably about 12 of us or so, with a number of
Israeli officials, Palestinian notables and others,
and that lasted about ten days or so. That was my
first trip, and then I went any number of times then,
either because I was living in Jordan or I was going
to Israel/West Bank/Gaza specifically.

Q I think you -- I read that you did about
seven months of field work in the '89 to '90 time
frame.

A Yes.

Q And where was that?

A That was in the West Bank in Gaza. I was
living in Wadijiz Shaykh Jerra neighborhood of east

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science.

Q Political science?

A Yes.

Q All right.

You did -- you were an exchange student
in Jordan in high school; is that right?

A No. I was an exchange student in Iran in
1978, right out of high school.

Q It must have been interesting.

A It was an interesting time to be there.

Q And then is your Fulbright in Jordan?

A I did Fulbright in Jordan.

Q What year was that?

A That was 1984/'85.

Q What did you do between graduating from
college and beginning your Fulbright?

A The first year I worked at a couple of jobs
just to sort of get away from school and make some
money. Then I went into the Johns Hopkins SAIS
program for a while, did not complete the degree on
that, and then did the Fulbright, and I had been
accepted to Berkeley to do my Ph.D., so I, with a
reason to come back, I went back out to California.

Q And then while you were -- I noticed that
while you were in graduate school, you spent a fair

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Jerusalem and doing field work throughout the West
Bank and Gaza at that time.

Q And then you returned in '92?

A Then I was affiliated -- during that time
frame I was affiliated with the Hebrew University of
Jerusalem, Mount Scopus. That is the campus of the
Hebrew University of Jerusalem in east Jerusalem.
Took about four months after that field work was done,
and I traveled across Asia with my wife sort of on a
shoestring budget. Then returned to Berkeley and
continued to complete the Ph.D.

I took a job in the Naval Post-Graduate
School actually a little bit before I finished the
Ph.D. I took the job in 1991 and then filed my Ph.D.
in, I believe it was April of 1992.

Q So your MA was -- you weren't in the MA
program. You received an MA from Cal; right?

A Correct.

Q But you weren't in the MA program. It was
just a step along the way to your Ph.D.?

A Yeah, this is the way Berkeley and a lot of
other graduate schools do it. They'll admit you, and
your first year is essentially to see how you do, you
know, can you cut it. At the end of the first year,
you basically need to get a master's to qualify, and

3 (Pages 6 to 9)

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1 for some people they believe can't cut it, can't
2 complete the Ph.D., we call it a terminal master's or
3 informally a sayonara master's.

4 For the rest of us, we got the master's but
5 then continued on with the Ph.D. program.

6 Q And what was your dissertation on?

7 A The dissertation was a study of collective
8 action, essentially why it is under, and under what
9 conditions that large groups of people come together
10 for a common purpose, even in spite of obvious dangers
11 to do so, and the primary case study of that was the
12 First Palestinian Intifada, which is why I was living
13 in east Jerusalem at the time.

14 Q Did your dissertation form the basis of
15 parts of your 1997 book?

16 A Yes.

17 Q I suspected that might have been the case.

18 A It's a pretty common theme.

19 Q So the Naval college you mentioned -- say
20 the name of it again.

21 A Naval Post-Graduate School.

22 Q And that's an educational institution
23 associated with the United States Navy?

24 A Correct.

25 Q And in order to work there, do you have to

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1 team that did a corruption assessment in Yemen. Same
2 rules applied. I was not allowed to just go and
3 spread the report, but the US Embassy put it online,
4 at least a redacted version of it. So sometimes
5 they're easy to get, sometimes perhaps not.

6 Q So let me ask you about the ones that you
7 listed on your CV, some of which I've read and some of
8 which I have not, and if at any time you feel that you
9 can't disclose something, then just say so, and
10 Mr. Hill and I will duke that out.

11 A Fair enough.

12 Q All right.

13 So you did a USAID study that was
14 released in 1993?

15 A Mm-hmm.

16 Q Do you remember that one, or should I
17 refresh you a little bit?

18 A I do remember it.

19 Q Go ahead.

20 A This was not one that entailed field work to
21 West Bank and Gaza. It was an assessment of
22 essentially the state of play of non-governmental
23 organizations in, in the West Bank and Gaza.

24 As you've presumably read my book, each of
25 the major political factions of the PLO and also of

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1 be a member of the Armed Services?

2 A No. In fact, most of the faculty, the large
3 majority of the faculty are civilian Ph.Ds.

4 Q Yourself included?

5 A Myself included.

6 Q You -- from what I could tell on your CV,
7 you were not in the Armed Forces.

8 A Correct.

9 Q So I saw also on your CV you did some work
10 with USAID.

11 A Quite a bit, yes.

12 Q And I noticed a -- some of the USAID reports
13 I could find and some of them I could not. Do you
14 know, is that just my research skills, or are some of
15 them not available?

16 A I personally haven't tried to search for
17 them, since I know what they say and I have a copy
18 myself. Some are more sensitive than others, and
19 since they're proprietary, they generally don't get
20 released to the general public, or some version might.

21 I mean for example -- and this is one of my
22 requirements when I go and do an assessment or some
23 sort of development project, is that I not release the
24 report publicly unless I ask permission and they say
25 fine, but in some cases, for example, I did a, I led a

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1 the Islamist movement had set up their own series of
2 NGOs, agricultural relief committees, medical relief
3 committees, that sort of thing.

4 So they wanted me to essentially give them a
5 tour d'horizon of what was out there and how they
6 could understand the complex of NGOs in the West Bank
7 and Gaza.

8 Q So with an eye toward how different
9 self-rule scenarios might impact the existing
10 institutions; was that the thesis of it?

11 A That was part of it as well, yes.

12 Q I read a comment you made which I wrote down
13 and I'll read it to you, and you tell me if it's
14 correct or if it was correct at the time.

15 A Okay.

16 Q The comment is this.

17 "The single most important fact
18 affecting the future of Palestinian institutional
19 development in the occupied territories is that
20 Fatah is currently seeking to monopolize and
21 control all major development sectors in the West
22 Bank and Gaza in preparation for autonomy."

23 Does that sound correct?

24 A That sounds like something I would say, yes.

25 Q As of 1993?

4 (Pages 10 to 13)

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1 A Yes.

2 Q And I, at that time -- well, I've read
3 you've used the word "rentier states" or "rentier
4 regime," something like that.

5 A Yes, rentier states, yes.

6 Q I probably said it wrong. Is that an
7 English word or a French word, or what is that?

8 A It comes from the French. It actually came
9 out of the study of economics. There was an article
10 in 1974, I believe it was. It was a study on Iran
11 that first applied that term to essentially regime
12 types, and there's a very big literature today on
13 rentier states.

14 Q And it's basically a state where the
15 government controls the resources and maintains
16 control through its control of the resources, top down
17 rather than bottom up?

18 A Yeah, it tends to be -- I've called them in
19 a number of places "paper tigers," and perhaps more
20 sarcastically in some places "Santa Claus states."

21 Essentially what happens is the regime does
22 not rely on its own citizenry for its resources, for
23 its taxes. Instead, it gets resources from an
24 external source. Most of the study of rentier states
25 have focus on the sale of oil, which is in almost

1 And essentially what happened is, as part of
2 the terms, the secret agreement at the time, they had
3 to cut a lot of those distributions that the state
4 gave society, folks in the East Bank, primarily East
5 Bankers, not Palestinians in Jordan, objected, there
6 were riots in the street, people were killed, martial
7 law declared. And ultimately Jordan had to -- the
8 price for trying to extract more resources from its
9 own citizens was to open up the political process.

10 So there's a large literature on that, but
11 the key point here is rentier states, when those rents
12 are flowing, tend to be stable and the state tends to
13 be able to call the shots pretty well. When there's a
14 disruption in those rents, it exposes profound
15 weakness in most cases.

16 Q Thank you. That was perhaps more than I was
17 asking, but it's all right.

18 A You're talking to a professor. Sorry.

19 Q It's not a criticism.

20 A Very good.

21 Q You returned to Israel/West Bank/Gaza area
22 in '94 for additional field work?

23 A Yes, I believe even before then. I think I
24 had returned in '92, if I recall it correctly. '94 I
25 was there in the spring. I was doing work in both

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1 every case state-owned.

2 So you have a situation where money flows
3 directly to the state treasury, and the state then,
4 instead of having this kind of back-and-forth
5 resources up, distribution down, and the complex
6 relations between state and society that evolve out of
7 that. Instead, you have a state that essentially its
8 role is to distribute these resources that have come
9 from outside, and people have shown that that makes a
10 considerable difference in political outcomes.

11 It tends to discourage democratic
12 development, it tends to encourage kind of a
13 personalized form of authoritarianism. It also
14 creates something of a weak state, in that if there
15 are serious disruptions in those flows of rent, then
16 what happens.

17 And you have examples, for example, in
18 Jordan. Jordan essentially ran out of money in the
19 1980s. Historically, about half of Jordan's budget
20 revenues were subsidized by outside actors, by the
21 United Kingdom, by the Gulf states, by the US in some
22 cases, and those monies dried up in the 1980s. The
23 Jordanian state was essentially bankrupt. It had to
24 go to the -- I believe it was the IMF, not the World
25 Bank, to get a bailout.

1 Jordan and West Bank, and then I know I returned again
2 on a government project for about three months in
3 1995.

4 Q How is your Arabic?

5 A Pretty good. I mean not fluent. I would
6 say it would be a 3/3. I can read it better. Oral is
7 a little bit rusty right now.

8 Q Better than mine.

9 All right. '95, it looks like you did a
10 three-month project on judicial administration in
11 the Palestinian legal sector; is that right?

12 A Yes.

13 Q And could you sort of summarize your
14 recommendations of what they needed to do to improve
15 their legal sector?

16 A Yes. This was the first attempt by USAID to
17 essentially gauge the receptiveness of the legal
18 sector to significant development assistance. So we
19 were implementing a number of fairly small projects
20 within court administration, but at the same time
21 really trying to test the waters for, is this a sector
22 that is prepared to absorb a significant investment
23 from USAID.

24 And our conclusion was no, it is not at that
25 time. We made a series of recommendations of what,

5 (Pages 14 to 17)

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1 what smaller steps USAID could perhaps do to enhance
2 that sector, but we felt that until the West Bank and
3 the Gaza areas had unified their legal systems,
4 because the West Bank was under French civil code and
5 Gaza was still under common law from the British
6 mandate period.

7 We felt if too much investment went in too
8 quickly, what you'd end up doing is solidifying those
9 differences, and it was important for the Palestinians
10 to first integrate their legal system, their codes,
11 basically choose which way they're going to go and do
12 so, and once that has happened, then the sector would
13 be more likely to be ripe for investment.

14 Q Do you know whether today -- well, let me
15 ask you a foundation question.

16 Have you sort of followed the legal
17 sector in Gaza and the West Bank since your --

18 A Off and on. Certainly not as closely as I
19 was back in the '90s, but I still try and follow it.

20 Q And what's your assessment today? Do they
21 have that unified legal system you were recommending?

22 A Much more so. Essentially what has happened
23 is the common law tradition in Gaza has essentially
24 gone out, and the French civil code tradition of the
25 West Bank has more or less won out.

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1 Q Has USAID made investments in the
2 Palestinian legal system?

3 A They have. In fact, there's -- over the
4 last, oh, gosh, ten years, maybe, there has been a
5 fairly significant investment in automation in the
6 West Bank, particularly in West Bank, obviously not in
7 Gaza since 2006/2007, but a focus in the West Bank to
8 automate court administration. It's a similar project
9 that they've been doing in Jordan as well.

10 Q Interesting.

11 So you published your book in '97?

12 A Mm-hmm.

13 Q Between the field work for the judicial
14 administration report and the publication of your book
15 in '97, did you return to Gaza/West Bank/Israel?

16 A Honestly, I'd have to look at my CV whether
17 I went in '96 or early '97. I was going on a pretty
18 regular basis during the 1990s.

19 Q I didn't -- in fairness to you, we should
20 have given you a copy of your report.

21 Do we know what our next number is?

22 MS. McMILLAN: The court is doing
23 it by deposition.

24 MR. YALOWITZ: Oh, I'm going to
25 give up. We're going to do it by deposition.

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1 I have to say the Miller Chevalier lawyers
2 are very disappointed. They have every
3 exhibit numbered, and I just don't seem to
4 have the ability to follow suit, so we're
5 going to label this as Robinson Deposition
6 Exhibit 1.

7 (Robinson Exhibit 1 was marked for
8 identification.)

9 BY MR. YALOWITZ:

10 Q I was looking at --

11 A In answer to your question, I did not go in
12 between the time I was there for three months in '95
13 and the publication of my book in '97. I did not
14 return in that time frame to Israel/West Bank/Gaza.

15 Q Did you keep up with developments in other
16 ways?

17 A Yes, I -- but I did keep going after that.
18 Again, I was there in '02 and '04. The last time I
19 spent any significant time was 2006.

20 I was also doing some other work in other
21 places, a lot of work in Jordan, for example, some
22 work in Yemen and elsewhere, but yes, I did try and
23 keep up with, keep an interest and continue to publish
24 on Palestinian politics.

25 Q So, so you, you published a, I guess an

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1 article in '97 called "The Growing Authoritarianism of
2 the Arafat Regime."

3 A Yes.

4 Q And that sort of reflected your, not only
5 your field work, I gather, but -- well, what source
6 material did you rely on for your conclusions that you
7 reached in that article?

8 A For that article it would be the -- the
9 sources that were cited in the article would obviously
10 be the first place, plus my own experience studying
11 the development of the Arafat regime both in terms of
12 field work, again being there in '95 and, and then
13 following on the, the academic literature primarily of
14 what was going on in the area. Plus some journalistic
15 accounts.

16 Q Did -- well, let's give you a copy of it.
17 It's not a memory quiz.

18 A That was a long time ago, wasn't it? 16
19 years.

20 (Robinson Exhibit 2 was marked for
21 identification.)

22 BY MR. YALOWITZ:

23 Q Do you have it?

24 A Yes, I do.

25 Q You, you wrote on -- first of all, where was

6 (Pages 18 to 21)

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1 this published?

2 A "Survival."

3 Q What is that?

4 A That is a publication attached to the
5 Institute for International Security Studies in
6 London. It's a very prestigious institute.

7 Q So, so it reflects some sense among somebody
8 that your opinions are well-sourced and worth
9 publishing for the use of academics and the public?

10 A I wouldn't -- no, I wouldn't agree with
11 that. I don't think my opinions come into play here,
12 but I think they think my analytical skills are worthy
13 of publication here.

14 Q Fair enough. I don't want to quibble with
15 you. I don't mean opinions like, you know, I'm a red
16 state or I'm a blue state or something like that.

17 A Right.

18 Q I mean your conclusions based on the field
19 work and literature that you've reviewed, you reach --
20 you conduct some analysis and reach conclusions;
21 right?

22 A Yes.

23 Q All right.

24 So, and the fact that it's published in,
25 in "Survival" reflects some sense by the editors

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1 the PA was toward increasing authoritarianism and
2 centered around Yasir Arafat himself.

3 Q You wrote "ruled by decree" -- and I'm
4 looking on page 43, toward the center of the page.
5 You can sort of cheat by looking at my highlights.

6 A That's what I do, right.

7 Q "Rule by decree is still the most common
8 form of decision-making in the PA, with Arafat himself
9 trying to micromanage virtually everything."

10 That was an accurate reflection of your
11 conclusions as of 1997?

12 A That was the clear trend line in 1997,
13 correct.

14 Q And you wrote on page 45 toward the bottom,
15 "The conflation of the Palestinian polity with Arafat
16 has been seen even in the distribution of funds by
17 donor countries, where Arafat has resisted, more or
18 less successfully, financial transparency and
19 accountability. It is Arafat the person, not the
20 institutions of the PA, who controls the money. In
21 many ways Arafat is the state," emphasis on the word
22 "is."

23 A Mm-hmm.

24 Q Those were your views as of 1997; right?

25 A Correct.

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1 of "Survival" that there's some validity to your
2 conclusions?

3 A Yes.

4 Q And you stand behind your conclusions?

5 A The conclusions as of 1997 when this was
6 published, yes.

7 Q Right. I mean sometimes I've noticed you
8 made forecasts, and the one thing we know about
9 prognostication is it's very difficult, especially
10 when the future is concerned; right?

11 A Absolutely.

12 Q All right. Anyway, as of 1997, it was your
13 view -- and I'm reading from page 42 of the article
14 which is the second page of our little exhibit. You,
15 you wrote -- and I'm looking -- just for your
16 reference, I'm looking at the second full paragraph.

17 You wrote that "The PA has become an
18 authoritarian polity run by a despot."

19 A Mm-hmm.

20 Q That was your opinion in 1997; correct?

21 A Yes, and then as the title would suggest,
22 the, this is a, this is a dynamic process. It's not a
23 completed process. If you take that sentence out of
24 context, it may appear that it's all done and past,
25 but what I was suggesting here is the trend line for

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1 Q Do I have more that I wanted to ask you --
2 oh, I have one more, which is on 48.

3 You wrote that there were "four
4 political pillars of PA rule." Do I have that
5 right? So we're on 48 in the second paragraph
6 from the bottom, the last full paragraph.

7 A Mm-hmm.

8 Q And this is -- you're leading into a
9 description of four different pillars of PA rule.
10 This is sort of your evaluation of I gather the way in
11 which the PA was maintaining its power; right?

12 A Correct.

13 Q And the first one, the first pillar was --
14 I'm just going to read it to you, and you tell me if
15 it was -- if I've got it right.

16 "Police and security personnel employ
17 the means of coercion necessary for PA rule. The
18 actual numbers are not known with precision,
19 largely because most of those forces are 'illegal'
20 under the Oslo provisions. In any case, the PA
21 employs approximately 40,000 police and security
22 personnel for a population of about 2 million --
23 one of the highest ratios in the world. While the
24 majority of the 40,000 consists of policemen,
25 about one quarter comprises security personnel

7 (Pages 22 to 25)

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1 employed by up to ten overlapping forces. The
2 leaders of each service report directly to Arafat,
3 an old-fashioned method of preventing alliance
4 formation."

5 Is that an accurate statement of your
6 views as of 1997?

7 A Yes, it is.

8 Q Okay. Excellent.

9 Now, I also want you to ask you about
10 some things that you wrote in your book, but I
11 didn't make copies of it, because I borrowed it
12 from a library, and I felt like it would be
13 unfair, but what I am going to do is I'll read
14 some statements, and if you'd like to see the
15 book, I'll just hand it to you so that you can
16 check it.

17 Is that, is that okay with you?

18 A Okay.

19 Q And you're the --

20 A I feel cheated out of some royalties,
21 though.

22 Q Well, you're the copyright holder, and if
23 you would like us to make a photocopy of the book for
24 the record of your deposition, we can do that, and
25 depending on how it goes today, I'll take under

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1 Q Now, I'm going to look at page 174.
2 "Palestinian state building" -- I'm reading from page
3 174. "Palestinian state building in the post-Oslo
4 period has not been as haphazard as it might appear.
5 Characteristics of this process have included
6 authoritarianism in decision-making, the
7 anti-institutional personalization of power and the
8 pervasiveness of violence in the system."

9 Is that an accurate statement?

10 A Yes. This is a regime that was new to the
11 territory, was profoundly weak, and was seeking to
12 consolidate its power over a group that, again, that
13 it had a lot of ties to but did not have that kind of
14 everyday organic relationship that develops between
15 state and society in a lot of other places. Why?
16 Because all the leadership is coming from Tunisia and
17 outside the country.

18 Anytime you see a regime trying to begin to
19 close down the political process, trying to pass this
20 Draconian NGO law that I also mention in the article,
21 trying to cut back on political activity, whenever you
22 see that narrowing of the political sphere, it's
23 typically an indication of weakness that states that
24 are and regimes that are quite confident and quite
25 strong have no problem opening up the political

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1 advisement whether I'll buy a copy.

2 So, so, so what we'll do, I'll read a
3 statement and then I'll ask you is it a correct
4 statement of your views as of 1997.

5 Your book was also published in '97;
6 right?

7 A Correct.

8 Q Okay.

9 This is from page 160.

10 "While the rivalry between Hamas and the
11 PLO was real, it would be incorrect to portray
12 their relationship as irrevocably hostile."

13 Is that a fair statement of your views
14 as of 1997?

15 A Yes, in the sense that the personnel that
16 were part of the PLO, Fatah on the one hand, part of
17 Hamas on the other hand, this is a small community.
18 Many of them know each other personally, in some cases
19 are related to each other, went to school together.

20 So at the time -- and of course, I think
21 this has changed significantly, but at the time there
22 was a great deal of hostility and competition between,
23 between groups for influence, but I didn't, I did not
24 believe that it was something that was basically a
25 bridge too far that could never be crossed.

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1 process, because they're not afraid of their own
2 society. They think they're in a strong position.

3 Regimes like the PA in the 1990s was not in
4 a strong position. It was in a very weak position,
5 and so therefore, out of that weakness sought to close
6 down the political sphere to the degree they could.

7 Q So as a result of the weakness you've
8 described, sort of lack of organic strength, if you
9 will, the PA resorted to authoritarianism in
10 decision-making, personalization of power, and
11 pervasiveness of violence in the system?

12 A Yes.

13 Q Now, on page 182 I'll read a couple of
14 things that were interesting to me.

15 "The authoritarian political style of
16 the PA and of Arafat in particular has been widely
17 noted by observers in and out of Palestine."

18 Correct?

19 A I'll take your word for it that that's what
20 the page said.

21 Q No, but I mean --

22 A As a general principle, yes.

23 Q Yeah, when I'm reading to you, I'm
24 representing that that's what it says. By all means
25 I'm happy for you to look at the book in context, but

8 (Pages 26 to 29)

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1 my question -- and I should have asked a better
2 question -- is: Do you agree that that was an
3 accurate reflection of your opinions as of 1997?

4 A Yes.

5 Q Okay.

6 So you wrote, "The PA has openly
7 intimidated the Palestinian press to the point
8 that self-censorship is now the norm, much as it
9 was under Israeli occupation."

10 Is that an accurate reflection of your
11 views as of 1997?

12 A Yes.

13 Q You wrote -- and I'm going to read a couple
14 sentences, but maybe not the whole paragraph. This is
15 about the security and intelligence services.

16 You wrote, "The authoritarian impulse is
17 also seen in the establishment of a number of
18 overlapping security and intelligence services to
19 monitor and control dissent. The various forces
20 include the general intelligence service, headed
21 by Brigadier General Amin al-Hindi, the preventive
22 security force under Colonel Rajub in the West
23 Bank, and Colonel Mohammad Dahlan in Gaza, the
24 presidential guard/force 17 under Colonel Faisal
25 Abu Sheera in Gaza, and Colonel Hikmat Barakat in

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1 your -- in that paragraph I just read?

2 A Yes, I have. Jibril Rajub, for example, I
3 have met.

4 Q I heard he runs a soccer federation now.

5 A Apparently so. He runs a number of things,
6 apparently.

7 Q Any others besides Mr. Rajub?

8 A On that list that you read, I believe the
9 answer is no.

10 Q Let's look at page 183.

11 "The process of integrating the legal
12 systems has been marked by arbitrary decree."

13 Is that an accurate reflection of your
14 views as of '97?

15 A And that specifically refers to the
16 merry-go-round of Supreme Court justices. If a
17 justice was appointed who really believed in the rule
18 of law and implemented it and that was not politically
19 convenient, and we saw that during this time frame,
20 with a Supreme Court justice who lasted all of seven
21 or eight months because of his, his enthusiasm to
22 apply the rule of law.

23 Q I suspect there are Supreme Court justices
24 and presidents in this country who might feel
25 similarly toward one another.

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1 the West Bank, and the special security force
2 under General Abu Yusuf al-Wahidi" -- well, why
3 don't we stop there. That's enough for now.

4 Accurate reflection of your views as of
5 '97?

6 A Yes, it's a classical strategy also borne
7 out of weakness, where the regime doesn't have
8 confidence that if it establishes kind of regular
9 institutions, regular command and control, et cetera,
10 it would be in fine shape.

11 So it essentially distrusts the situation.
12 It's in a very difficult position. It doesn't trust
13 its society to essentially keep it in power under an
14 open process.

15 So part of what you saw with all these
16 overlapping security and police forces is a situation
17 where part of their jobs was to spy on each other, and
18 this is a classic coup-proofing strategy by regimes,
19 to create these multiple overlapping competitive
20 security and police forces that can contain dissent
21 amongst the general population but also balance each
22 other out to protect the interest of the, of the
23 leader.

24 Q Did you have the opportunity in your field
25 work to meet some of the individuals mentioned in

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1 A It's also why you had the state security
2 courts set up that the Arafat regime -- and this is
3 under tremendous pressure from the Israelis and the
4 Americans, to deal with Hamas and others, and they
5 didn't -- they essentially didn't want it to go
6 through the regular civil court system, for fear that
7 the rule of law would be applied, they'd set up state
8 security courts, that so-called political cases or
9 terrorism cases would go before.

10 Q You wrote on page 185 of your book,
11 "Concomitant with its political need to demobilize
12 Palestinian society in order to rule over it, the PA
13 has nourished an atmosphere of political personalism
14 with a cult of personality constructed around Arafat
15 himself."

16 Is that a fair statement of your views
17 as of '97?

18 A Correct.

19 Q You wrote on page 186 -- I really like this
20 book. You wrote on page 186, "The equation of Arafat
21 and the PA extends to the image projected abroad as
22 well. The best example of this came when donors at
23 first demanded greater accountability for the
24 \$2.4 billion in aid promised to the Palestinians over
25 a five-year period. Donors wanted the monies handled

9 (Pages 30 to 33)

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1 institutionally through PECДАР, for example, with
 2 normal accounting procedures applied. Arafat wanted
 3 the monies just handed over to the PA without real
 4 accountability, arguing in effect that there was no
 5 difference between the PA and the Arafat, that
 6 demanding accountability was a personal affront to
 7 Arafat. Arafat had faced similar charges from within
 8 the ranks of the PLO in previous years and had
 9 responded similarly, that he was the PLO. In both
 10 cases Arafat largely prevailed."

11 Is that an accurate statement of your
 12 views as of '97?

13 A You have a situation where -- because taken
 14 out of context, I think it may be, lead to a
 15 misconception of what I was arguing.

16 Arafat himself -- I know of no evidence that
 17 Arafat himself was personally corrupt, that was taking
 18 donor money and lining his own pockets and building
 19 mansions elsewhere. Once he got married, there were
 20 lots of allegations that his new wife was shall we say
 21 less frugal with public funding, but Arafat himself
 22 lived a pretty modest life.

23 A cornerstone of his ability to rule was
 24 patronage, was having resources to essentially buy
 25 support from people, individuals that perhaps were not

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1 likely to go along with his, his plans, but a little
 2 baksheesh, a little bribe, you know, "patronage" as we
 3 call it, the same kind of thing that Americans have
 4 done in Iraq and Afghanistan, incidentally, where we
 5 have provided a fair amount of cash for patronage
 6 purposes, to essentially buy off dissent.

7 So during this period of time, Arafat sought
 8 to, and I believe it's fair to say was successful in,
 9 siphoning off a fair amount of money from various
 10 sources that was used. In fact, Ha'aretz famously
 11 reported -- this is an Israeli newspaper -- reported
 12 about a bank account that Arafat had in Tel Aviv with
 13 Bank Leumi, an Israeli bank, and this money was
 14 essentially political money. This was money to buy
 15 dissent.

16 If you have really effective accountability
 17 mechanisms and transparency in your financial
 18 dealings, it's pretty hard to set aside significant
 19 amounts of money for patronage purposes. So that was
 20 very much what was going on in the 1990s. I would add
 21 that that's changed a lot, particularly under Salam
 22 Fayyad.

23 Q By the way, we've decided, Laurie and I,
 24 before you arrived, that we would go by whatever
 25 transliterations you say.

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1 A Okay. Who implemented very far reaching
 2 transparency in the, in the PA budget, but there was
 3 not far reaching transparently in the PA budget in the
 4 1990s.

5 Q By the way, did that lack of transparency
 6 and political patronage scenario that you just
 7 described, did that persist until Arafat's death?

8 A It was a lot harder in the last couple of
 9 years just because of the Second Intifada and the
 10 problems associated with it. I mean there was so much
 11 pressure on the regime, I think it's fair to say you
 12 still had a lack of accountability and regular
 13 processes, but I think the reason why, under those
 14 circumstances, it was perhaps a little bit different
 15 than in the 1990s, but certainly similarities.

16 Q I want to ask you a question about the
 17 security forces, and then I'll read one more passage
 18 from your 1997 book and ask you about that.

19 You mentioned a couple of times in your
 20 '97 book that some of the security forces were
 21 technically illegal.

22 Do I have that right?

23 A Yes.

24 Q And is that -- did you take a look at the,
 25 the security annex of the Oslo interim agreement from

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1 1995?

2 A I would have a long time ago. I haven't
 3 seen it recently.

4 Q All right.

5 So in your, in your '97 book you wrote
 6 on page 186, "The various and technically illegal
 7 security forces have no clear and formalized role,
 8 nor is there any chain of command within the
 9 security community. They operate solely at the
 10 pleasure of Arafat."

11 Is that an accurate statement of your
 12 views as of 1997?

13 A Yes.

14 Q Thank you.

15 Now, you published an article in 1998
 16 called "Authoritarianism with a Palestinian Face."

17 Do you recall that article?

18 A Mm-hmm. Is that the one in Current History?

19 Q Well, why don't we take a look. I was --
 20 indeed it is "Current History, a Journal of
 21 Contemporary World Affairs."

22 A I've been doing this a long time, so I don't
 23 always remember which publication is which.

24 (Robinson Exhibit 3 was marked for
 25 identification.)

10 (Pages 34 to 37)

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1 BY MR. YALOWITZ:

2 Q It appears to me that there are some
3 similarities between the conclusions you expressed in
4 your book and conclusions that you expressed in the
5 Current History article.

6 A They're within a few months of each other,
7 so I assume that would be the case, yes.

8 Q Was the purpose of -- well, what was the
9 purpose of publishing in Current History about similar
10 topics that were in your book?

11 A They asked me to.

12 Q Is there -- do you view them as different
13 audiences or different outlets for the same set of
14 research and conclusions?

15 A Than --

16 Q So -- that's a bad question. Let me -- I'm
17 supposed to be good at asking questions, but sometimes
18 I'm not.

19 I mean you should feel free to look at
20 the Current History. I'm not going to do the same
21 exercise with the book, but a lot of the same
22 themes -- I'll just represent to you a lot of the
23 same themes that we've been discussing appear. PA
24 authoritarianism, the police forces reporting
25 directing to Arafat, a policy of personalizing

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1 power, cultivate personality around Arafat, and it
2 just, it just struck me that they were different
3 ways of saying pretty much the same thing, and so
4 I was wondering -- I guess, first of all, do you
5 agree that that's true?

6 A It does, it does appear that these are very
7 similar arguments. Essentially making the argument
8 of, you know, this is a weak regime trying to
9 consolidate power in a new area, essentially, for it,
10 and so it has done so in, not in a haphazard way but
11 in a fairly logical way, to try and consolidate its
12 own power.

13 Current History, to get back to I think that
14 earlier question, it has a pretty wide membership,
15 readership. Its audience is more kind of professors
16 and intellectuals that follow world events primarily,
17 and they want more informed commentary. It's not
18 quite as policy-oriented as foreign affairs would be,
19 but somewhat similar readership or foreign policy,
20 that kind of thing.

21 Q That's sort of what I was wondering.

22 A Yep.

23 Q All right.

24 So I, I think you returned to Israel and
25 the West Bank in '99.

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1 Does that sound right?

2 A I just saw that on my CV, yes.

3 Q And it looks like sometime after that visit
4 you worked on a USAID project or gave a report to
5 USAID involving enhancing Palestinian local governance
6 or something like that?

7 A That was the '99 project, yes.

8 Q And so that was one that I didn't see, so --
9 at least I didn't find it readily on the Internet.

10 Maybe with more work I might, but just describe the
11 project and tell me what you can about it.

12 A It was -- I was not the team leader for that
13 one. It was a group of individuals from this country
14 working with Palestinian counterparts to come up with
15 ways to enhance the capabilities of local government.

16 So at the time, as you may recall, US policy
17 was to try and strengthen local government in the West
18 Bank and Gaza, the policy of decentralization, and
19 this was a USAID project that basically sought
20 mechanisms to do that. What are some ideas in
21 collaboration with municipal governments, mayors and
22 city councils, town councils. What are the kinds of
23 things that can be done in order to enhance their
24 capabilities.

25 Q Is that report publicly available, to your

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1 knowledge?

2 A Not to my knowledge, and to be quite honest
3 with you, I don't even think I have a copy of the full
4 report, since I had a section of it that I was
5 responsible for.

6 Q You have your section, though?

7 A Probably somewhere, yeah.

8 Q Is it classified? Is there some reason why
9 it's not publicly available that you know of?

10 A Again, these are all proprietary. The USAID
11 hires a company to do a project, and so my job,
12 whether I'm a team leader or a member of the party, is
13 to provide our final product to, to that company, and
14 they provide it to USAID, and it's essentially a
15 decision of USAID whether they want to make it public
16 or not.

17 Q Is there anything in that community
18 governance report that you can think of that is of a
19 confidential nature?

20 A There would be nothing that would be
21 classified per se, and thinking back on it, I wouldn't
22 think there would be much that would be particularly
23 sensitive, so it wouldn't surprise me if you went to
24 USAID and asked for that report. I'm guessing they'll
25 probably give it to you.

11 (Pages 38 to 41)

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Q We'll learn together.

You did field work in Gaza and the West Bank in 2002 for a community services program?

A Yes.

Q Tell me what that was about.

A I was hired to lead a team, primarily two of us. I was with the Palestinian counterpart, Nael Shabarro, and we were brought in to do an assessment of what was the flagship development project by USAID in the West Bank and Gaza, and so we spent close to a month in '02 visiting a number of these project sites throughout the West Bank and Gaza, to provide an assessment of essentially what was, what was going well, what was not going as well, and provide recommendations as to how USAID might wish to move forward on this, again their sort of flagship development project.

Q Did you publish a report following that, or did you -- let me strike that.

Did you present a report following that work?

A Yes, yes. So same, same process. We wrote a report, and there's always back-and-forth, mission responds, we respond to any questions the mission has. This is the USAID mission that is housed in the US

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embassy in Tel Aviv, and ultimately we give the report to the company that was hired by USAID, who formally hands it over to USAID.

Q Did that 2002 field work involve any security matters?

A We were not assessing security issues at the time. Obviously this is during the Second Intifada, so there were a number of security issues that we had to respond to and be aware of.

Q Like what?

A For example, when we were traveling throughout the West Bank and Gaza, we had to be aware -- first of all, never go after dark unless we're -- for example, we lived in Gaza for a little while, and so that was okay to be out after dark when we were staying there, but not to travel after dark at all, to stick to, as best we could, to stick to the bypass roads that were built in particularly in the West Bank that were open, basically only open to Israelis and internationals.

We were able to be able to use those roads, because of the project we were on, to avoid checkpoints that, you know, could back us up for hours and hours and hours, and other common sense security precautions.

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Q When you traveled in 2002, did you have a vehicle that had international license plates?

A Yes.

Q And so you were, you were identified as, as you said, an "international"?

A We actually had license plates that were UN plates, because my partner's wife worked for the UN, so both of their cars had UN plates. So that allowed our transportation throughout the West Bank to, to proceed much more rapidly than it would have otherwise.

Q And why were you advised not to travel after dark?

A For security purposes. Again, this is the middle of the Intifada.

Q Meaning that -- what do you mean by "security purposes"?

A Things happen, and a lot of things happen after dark, so we were advised. We would have a security briefing at the US embassy at the very beginning of this project about what they advised, dos and don'ts as we went forward with our assessment.

Q In other words, you were advised not to travel after dark, because the, there was a chance that somebody might commit an act of violence against

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you even though you had UN plates?

A Well, you can't see the plates very well at night, and there is a -- there's a license plate regime in the West Bank. If you have yellow plates, that means you're an Israeli, either a settler or somebody from Israel proper traveling in the West Bank. If you had green license plates, that meant you were Palestinian. If you had white license plates, it was a UN plate or international.

So stoning of cars was a common feature of both uprisings. If you can't see the license plate very well from a distance, you take a higher risk of having the windshield of your car stoned if they can't see your license plate. Since they can see the license plate clearly in the day, we wouldn't have any of those problems, and we didn't. It was also August, so the days were quite long.

Q Did you -- in 2002 did you meet with PA security personnel?

A I don't recall if we did in that, on that particular time there. I, I rather doubt we did, just given what, the project that we were doing.

Q It looks to me from your CV that you returned to Israel and the West Bank in 2004.

A Yes.

12 (Pages 42 to 45)

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Q And this visit led to a DFID report?

A Yes.

Q Evaluating the negotiation support unit of the PLO's negotiations department?

A Correct.

Q Tell me about that project.

A DFID is the British equivalent of USAID. The British primarily, but to some degree in conjunction with some European partners, funded the negotiation support unit. There was -- so we were hired. Bob Springborg was the team leader, I was on the team, and so we did an evaluation of the negotiation support unit.

The NSU, negotiation support unit, was built to -- the idea behind it was to create serious technical competency by Palestinians in the various areas of the final status issues that would come up, things like water, for example, settlement and land demarcation, et cetera, so that the Palestinians during final status negotiations would have people with technical competency as opposed to just, you know, politicians talking. And that was believed to be a benefit to help move those negotiations along if and when they were to resume.

Q I noticed you also participated in a RAND

because the thinking was the last thing the US and, frankly, the Israelis and the region want is to create a Palestinian state that then fails. That would be a disaster. So what would be the kinds of things, you know, education, health care, security, I mean basically --

Q Governance?

A Governance. In all these sectors, what would be the kinds of things that would be required ten or 15 years out, so therefore have an eye toward them for the parties as they negotiate a final settlement.

Q This is sort of on the theory that where you start out could influence where you end up, I suppose.

A Yeah, if you have a goal of what it takes to succeed, then, as you put together that puzzle, you can be more mindful of the things that need to go into it in order to continue to have a successful state instead of a failed state ten, 15 years down the road.

Q So one of the sections in the RAND report was security?

A Mm-hmm.

Q But I didn't see your name on that. Did you participate in the security portion?

A As I recall, the security portion was

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study in 2005, which dealt with similar issues. I don't know if it's the same issues or different, but maybe tell me about the RAND study, and then I want to come back to the '04 period.

A Sure.

The RAND Corporation asked me to, would it be possible to take a leave of absence from my academic position to work at RAND. Their offer actually was to work permanently at RAND, but I was able to take essentially an academic year off, about nine months or so in 2003, to work at their Santa Monica, California, the main office. It's not a bad place to work. Let me tell you.

And we were tasked with doing a study. The idea of the study was it's US policy that there be, at this point in time, that there be a two-state solution, so the creation of a Palestinian state in West Bank/Gaza.

And we were tasked with I think a very interesting idea, and that is not to give opinions about what we think the final deal ought to look like between Israelis and Palestinians, but to say if we looked out ten to 15 years with that sort of view in mind, what, what would be the requirements that the Palestinians would need to have a successful state,

actually published as a separate booklet, but it's all part of the same project. I was brought in by Jerry Green, who ran the Middle East program at RAND at the time, and was asked to basically shepherd through this project from start to finish.

So I was involved in each of the -- I mean there are individual names on each chapter, but I was involved in each of those chapters, including the security one, to put together what I think was a very good final product.

Q I think you -- your chapter or at least the chapter on governance, I think you were the sole author.

A Correct.

Q Okay.

Now, coming back to the '04 period, or I guess really we can take them together. '04/'05 is sort of an interesting time in the life of the Palestinian authority because of the death of Arafat.

A Yes, in 2004, yes.

Q So you expressed some views about the death of Arafat both in the RAND study and in an article called "After Arafat"; is that right?

A I believe that would be correct, yes.

13 (Pages 46 to 49)

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1 Q So why don't we look at both of those things
2 together. I mean we'll look at the "After Arafat" and
3 then we'll look at the RAND study, so you can have it
4 and we can look at it together.

5 (Whereupon, a short recess was
6 taken.)

7 (Robinson Exhibit 4 was marked for
8 identification.)

9 BY MR. YALOWITZ:

10 Q Let's look at Robinson Exhibit 4. So tell
11 me what this is.

12 A This is an article that I wrote. It looks
13 like it's from Current History; is that correct? Yes,
14 Current History, January 2005.

15 Q And, and does it accurately reflect your
16 views as of 2005?

17 A I sure hope so.

18 Q I mean --

19 A Yes. Yes is the answer.

20 Q All right. I mean we're pretty informal,
21 but if there is something -- it's really important
22 that if there is something that you think you wrote
23 that is incorrect or you've later learned was
24 incorrect or --

25 A Yeah, I caught a mistake on my report last

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1 MR. YALOWITZ: All right. I
2 suppose that's a legitimate objection. Let's
3 clean that up. Thank you.

4 BY MR. YALOWITZ:

5 Q First of all, does the "After Arafat"
6 article correctly reflect your views as of 2005?

7 A As of January 2005, yes.

8 Q And is there anything in the article that
9 you know of that you think is -- now knowing what you
10 know today, some eight years later, that you think was
11 incorrect when you wrote it?

12 A I would need to reread it.

13 Q Okay.

14 Well, I don't want to take the time to
15 do that now, but if as I ask you questions about
16 it, if there are things that you believe, you had
17 thought was correct but you no longer believe are
18 correct, then you should feel free to say that,
19 either about this article or about anything else I
20 ask you, for that matter.

21 A Okay, I will do that.

22 Q Okay.

23 So you wrote in 1995 -- I'm sorry. I'll
24 say it again. New question.

25 You wrote in 2005 that "Arafat was the

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1 night as I was reading through it.

2 Q Do you want to describe that so that we have
3 it?

4 A The mistake, I have two, the same typo.
5 When I'm talking about evaluation of your expert
6 witnesses, I talk about five criteria to essentially
7 qualify as an expert on Palestinian politics, and then
8 there were six witnesses that I was reviewing, and at
9 the end of that there were twice, I think in the same
10 paragraph that I referred to the sixth criteria
11 instead of the five, so that was a mistake on my part.

12 Q Just a sort of a think dome?

13 A Yeah, five criteria, six people, and then
14 the six got stuck in my head, I guess, so I put six
15 criteria instead of the five that I started out with.

16 Q That's all right. We'll read it as five in
17 the places where it says six.

18 A Thank you.

19 MR. HILL: Are you asking him
20 whether this article is his current view?
21 Because you originally asked him whether it
22 was the 2005 view, and then you said it's
23 important to tell me if it's different. So
24 I'm not sure if you actually posed another
25 question or what the question pending is.

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1 principal Palestinian actor for the past four
2 decades."

3 I'm looking in the first paragraph.

4 A Correct.

5 Q And that was a correct view, a statement of
6 your views in 2005; right?

7 A He was the primary Palestinian politician,
8 yes.

9 Q And you wrote in the second column at the
10 bottom of the carryover paragraph, "Arafat epitomized
11 one-man rule"; right?

12 A I'm trying to find that here.

13 Q Second column, end of the carryover
14 paragraph.

15 A "While never the cruel dictator, Arafat
16 epitomized one-man rule," yes.

17 Q That was an accurate statement of your
18 views; right?

19 A Yes.

20 Q Do you continue to hold those views?

21 A I think it's a fair statement today to say
22 that Arafat, through his life, certainly from the
23 early 1970s until his death in 2004, was the primary
24 Palestinian political actor and saw himself as the,
25 really at the center of Palestinian politics, trying

14 (Pages 50 to 53)

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1 to kind of balance everything and move the body
2 politic forward.

3 Q You wrote in January 1995 [sic] -- and I'm
4 looking at the top of the column that we were just
5 focused on -- that "Arafat maintained a firm grip on
6 the authority's security forces until his dying day."

7 Is that an accurate reflection of your
8 views as of 2005?

9 A I would disagree with myself a little bit in
10 the sense that I think it's a fair statement to say
11 that Arafat maintained a firm grip at the top echelons
12 of, you know, basically the leadership of each of the
13 security forces under his, under his control, but what
14 I would say is, as you went down those forces, clearly
15 he would have lost, and he did, in fact, as a matter
16 of fact, lost control of a lot of these forces,
17 particularly during the Second Intifada.

18 Q So is that something you've learned since
19 2005?

20 A I would say that the way I wrote it here is
21 incomplete. In other words, to be more clear, I
22 should have said that the security bosses remained
23 loyal to Arafat, and he remained tied to them, but it
24 was the disintegration of that command and control
25 underneath that was the major problem or was a major

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1 Q Do you still adhere to that view?

2 A He was certainly the dominant man. He
3 was -- as I said here and elsewhere, he wasn't, he
4 wasn't Stalin. He didn't have control down to the low
5 level institutional base. His was a style of bribing
6 and cajoling and occasionally beating folks, but
7 there's no question that he was the preeminent
8 Palestinian political figure, which is why some folks
9 referred to him as "Mr. Palestine," because he was the
10 dominant leader.

11 Q Let's look at the RAND study, which is a
12 large document.

13 A There were two RAND books that came out in
14 '05. I was involved in both of them. This is the
15 first one. Okay.

16 Q Well, you've taught me something I didn't
17 realize.

18 A The other one which I was -- this one, I
19 oversaw the whole project. The other one I was just a
20 contributor to. It's called "The Arc."

21 Q So the one we're marking Robinson Exhibit 5
22 is the one you mentioned earlier where you had a hand
23 in all the chapters.

24 A Yes.
25

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1 problem.

2 Q You wrote right under the heading "The end
3 of" -- well, by the way, before I come to that, what
4 is your -- what is your evidentiary basis for the view
5 that you just expressed with regard to the
6 disintegration of command and control?

7 A Both doing field work in the area during the
8 Second Intifada, and doing a fair amount of primary
9 source reading of material.

10 Q Okay. Anything else?

11 A Those would certainly be the main, the main
12 inputs.

13 Q Thank you.

14 Now, under the heading "The End of
15 One-Man Rule" you wrote, "Arafat wore several
16 institutional hats, including chairman of the
17 Palestine Liberation Organization, head of its
18 largest faction, Fatah, president of the
19 Palestinian Authority, and often forgotten
20 president of the State of Palestine declared by
21 the PLO in 1988. In all these capacities, he
22 dominated Palestinian politics."

23 Was that an accurate statement of your
24 views in 2005?

25 A Yes.

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1 (Robinson Exhibit 5 was marked for
2 identification.)

3 BY MR. YALOWITZ:

4 Q Okay. You have Robinson Exhibit 5 before
5 you?

6 A Yes.

7 Q Could you identify it, please.

8 A This is the RAND Corporation study entitled
9 "Building a Successful Palestinian State."

10 Q And this is the, the report that you
11 mentioned earlier in which you had a hand in all of
12 the various chapters?

13 A I was -- I played the role essentially of
14 the PI, although I think formally for RAND purposes,
15 Jerry Green was the PI, but he basically had me do it.
16 So I wrote -- I was the sole author of one of the
17 chapters and was involved, not necessarily
18 substantively, but kind of shepherding through to
19 completion the other chapters.

20 Q What's a PI?

21 A Principal investigator.

22 Q So in your chapter, which is the governance
23 chapter, there are a couple of comments about PA
24 authoritarianism.

25 Would you just look at page 19 with me.

15 (Pages 54 to 57)

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Page 60

1 A 19? Mm-hmm.

2 Q You wrote, "Although the Palestinian
3 national movement under Yasir Arafat always had a
4 strong authoritarian streak -- not uncommon in
5 revolutionary or underground movements -- three
6 political factors in the 1990s and the first few years
7 of the new century reinforced this tendency."

8 Is that right?

9 A Yes.

10 Q That was your view as of 2005; right?

11 A Yes. This is mostly written in 2003, just
12 to let you know.

13 Q It was written in 2003 before the death of
14 Arafat, published in 2005 after the death of Arafat;
15 right?

16 A Yes.

17 Q And so did your views about the nature of
18 the PA change from 2003 to 2005 other than the obvious
19 absence of Arafat?

20 A Not substantively, no.

21 Q And on page 21 at the bottom of the
22 carryover paragraph, you wrote, "The recent death of
23 Yasir Arafat provides a rare opportunity to strengthen
24 Palestinian institutions in order to ameliorate the
25 excessively personalized nature of PA governance under

1 wanted to have a number of outside experts come in
2 periodically to advise CENTCOM on policy issues.

3 Q Do you provide written reports to CENTCOM?

4 A It didn't last very long, frankly, in terms
5 of the meetings, but no, we would do -- we got
6 together, gosh, it was only two or three times in the
7 first two years, maybe, to go over certain issues. It
8 was a program that never got institutionalized. So
9 when the chain of command switched, the command of
10 CENTCOM switched. This board of advisors seemed to
11 wither away.

12 Q Did you provide briefings of a confidential
13 nature to CENTCOM?

14 A The discussions that we had at CENTCOM, we
15 went down to the MacDill Air Force Base, and we were
16 advised to, while we were not discussing classified
17 material, advised that these were sensitive
18 discussions and to keep them to ourselves.

19 Q Have you abided by that?

20 A Yes.

21 Q And if I asked you to describe the
22 conversations, would you be comfortable doing so?

23 A Only in a broad way.

24 Q And do you know whether people from the
25 military wrote down the things that you recommended to

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1 Arafat"; right?

2 A Yes.

3 Q All right.

4 By the way, did you publish, at any time
5 prior to 2005, any analysis of the PA security
6 apparatus under your own name?

7 A I don't believe so, no.

8 Q I didn't see any, but I wasn't able to find
9 all of your work from public source materials. So I
10 just -- there's nothing that comes to mind as far as
11 you can remember?

12 A Not a, not a specific study. I would have
13 discussions of the security forces in various of my
14 publications but not a specific study dedicated to
15 that topic alone.

16 Q I noticed sometime in the mid-part of the
17 2000 decade, the 2000s, whatever we call it, you were
18 appointed to the board of experts to advise CENTCOM.

19 A Yes.

20 Q What is that?

21 A CENTCOM is the US Central Command. It is
22 the regional command in the United States military
23 overseeing the Middle East, essentially, greater
24 Middle East, and they decided that they wanted to
25 begin particularly in the aftermath of the Iraq war,

1 them?

2 A I have no knowledge one way or the other.

3 Q Based on -- well, you have experience
4 working with people in the military?

5 A Yes, I do.

6 Q And based on your experience, do you have
7 any reason to believe that they didn't write down what
8 you told them?

9 A I suspect there was some written record,
10 yes, but I have not seen it and I don't know about it.

11 Q Fair enough. It's not available to you?

12 A Correct.

13 Q And it's probably not available to me
14 either; right?

15 A Correct.

16 Q All right.

17 Looks like from your CV -- and I think
18 you mentioned the most recent time you were in the
19 Gaza/West Bank/Israel region was in '06?

20 A Correct.

21 Q What was your work at that time?

22 A Again, it was another USAID project, and I
23 was brought on as the team leader to study the sources
24 of intra-Palestinian violence and provide
25 recommendations about how some of that violence may be

16 (Pages 58 to 61)

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1 ameliorated.

2 Q Did you do field work in Gaza at that time?

3 A No. We were not allowed to go to Gaza.

4 Q Did you do field work in the West Bank
5 territory?

6 A Yes. In fact, my main office was in
7 Ramallah.

8 Q Did you work with Palestinian security
9 forces at that time?

10 A We interviewed elements of Palestinian
11 security forces, also members of various militia, for
12 lack of a better word, and other Palestinians that
13 were involved that looked at that issue, studied that
14 issue as well.

15 At the time, you recall, there was a lot
16 of -- now, this was following the '06 elections which
17 Hamas narrowly won, and that that led to a significant
18 rise in intra-Palestinian violence, so that's what I
19 was studying.

20 Q Who were some of the groups that you
21 interviewed?

22 MR. HILL: Objection. Vague.

23 You can respond.

24 THE WITNESS: Shall I respond?

25 MR. HILL: You can answer.

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1 THE WITNESS: Oh, we would -- we
2 were prevented by US -- I don't want to say
3 law, but by -- we were instructed not to meet
4 with members of Hamas. So we had to be very
5 careful not to do that, but we met with
6 members of Palestinian police. We met with a
7 couple of members of the judiciary.

8 We met with one PA official whose job
9 it was to intervene in tribe or clan violence to
10 try and settle that down, and you recall during
11 this period the Israelis essentially destroyed
12 all of the or most of the capacity of
13 Palestinians to do police work, jails, do any of
14 the certain normal law-and-order things.

15 So the Palestinians were essentially
16 winging it, trying to reduce violence,
17 intra-Palestinian violence in the absence of any
18 institutional base. So there was an attempt, for
19 example, to recreate the tribal Sulha, tribal
20 Sulha framework to try to do informal problem
21 solving, these kinds of things.

22 We met with at least one member who
23 self-identified as a local leader of the
24 al-Aqsa Martyrs' Brigades in our office in
25 Ramallah.

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1 BY MR. YALOWITZ:

2 Q Who was that?

3 A I didn't have his name. I was not given his
4 name at the time either.

5 Also, there was a meeting that I attended in
6 Nablus as part of this. Nablus is a major city in the
7 northern part of the West Bank, in which
8 representatives of various political tendencies showed
9 up to essentially talk out their differences and what
10 some of their ideas were to begin to ameliorate what
11 was a very pressing problem, the rising
12 inter-Palestinian violence.

13 Q Did you prepare a report as a consequence of
14 this field work?

15 A Yes, I did.

16 Q Who did you provide that report to?

17 A I provided it to the people that had
18 initially hired me, and they had -- I have to remember
19 the name of the group. It will come to me in a
20 minute, but anyway, they have an office based -- I
21 used their office in Ramallah. They provided it to
22 the USAID mission in Tel Aviv.

23 Q And is that report publicly available?

24 A I don't know. I suspect not, since it was a
25 fairly sensitive thing.

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1 Q Is it fair to say that the work that you did
2 in '06 was informative of your opinions about PA
3 security forces in your report in this case?

4 A Yes, yes.

5 Q Do you have a copy of your 2006 report to
6 USAID?

7 A Yes, I do.

8 Q And are you at liberty to provide it?

9 A No, I am not.

10 Q So with regard to your report in this case,
11 it appears that you cited a number of different
12 sources, and I just want to ask you about some of
13 those categories of sources.

14 You asked about government reports --
15 I'm sorry -- you cited some government reports;
16 right?

17 A Are you talking about my '06 study?

18 Q No, no. I'm sorry. I'm moving topic. I
19 mean could I ask you about your '06 study. It's a
20 little hard for me to ask questions, because I don't
21 have it.

22 A And again, I could only talk about it in
23 generalities, but --

24 Q Why don't you describe it in as much detail
25 as you feel comfortable.

17 (Pages 62 to 65)

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1 A Again, it was trying to outline the sources
2 of intra-Palestinian violence, why this, the violence
3 was, was peaking, and essentially what I said in broad
4 terms was with the, you know, a couple of things going
5 on that were closely related.

6 With the end of one-party rule -- Fatah had
7 been the top dog for so long. Fatah had been the
8 major political actor up to that point. Hamas won the
9 2006 Parliamentary elections. So you had in -- at
10 least the West Bank. Again, we were not allowed to go
11 to Gaza at the time.

12 You had in the West Bank a situation where
13 you had a lot of kind of just local thugs, local
14 toughs that had been on, you know, somebody's payroll
15 or another. In this case a lot of them had been
16 receiving patronage payments through, through Fatah or
17 somewhere else, and they were cut loose, and they then
18 essentially turned their arms away from attacking
19 Israel and towards criminal activity inside the West
20 Bank.

21 Q And you're not suggesting that -- well, you
22 said turning their arms away from attacking Israel and
23 turning toward to criminal activity inside the West
24 Bank. Certainly I think you and I agree that some of
25 the activity, at least some of the activity that some

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1 of these groups directed toward Israel was indeed
2 criminal.

3 MR. HILL: Objection. Vague. The
4 witness can respond if he understands the
5 question.

6 THE WITNESS: Criminal according to
7 Israeli law, yes. In some cases criminal
8 according to anybody's law. In a number of
9 cases Palestinians would define it not as
10 criminal in the sense of seeking profit as
11 opposed to a political nationalistic event,
12 but just -- I mean it went to this complete
13 breakdown of command and control and law and
14 order in the West Bank, where nobody was in
15 charge.

16 Basically nobody could get anything
17 done, and you had all these particular youths,
18 you know, teenagers, early 20s, that had weapons
19 that were just -- you know, they would refer to
20 themselves as "freedom fighters" or
21 what-have-you, but then they would turn and use
22 their weapons to extort money from local
23 businesses, I mean clearly criminal activity for
24 profit, and again it reflected just this utter
25 breakdown of command and control and law and

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1 order in the West Bank.

2 BY MR. YALOWITZ:

3 Q In the early post-Arafat years?

4 A It accelerated with the death of Arafat and
5 the victory of Hamas in the '06 elections, but that
6 process had been well under way before Arafat died.

7 Q So let me ask you about some of the players
8 were you talk about as we go forward today, and you
9 just give me your sense of who they are.

10 So Jibril Rajub you mentioned. I think
11 you wrote in your book that he was one of Arafat's
12 closest advisors.

13 A Jibril Rajub was the long-time head of
14 preventive security in the West Bank and a pretty
15 major political figure in his own right.

16 Q And a person very close to Arafat?

17 A Yes, generally. I mean again you're talking
18 about people that generally all have fairly large egos
19 and don't just take orders, but they had been
20 political allies for some years.

21 Q By the way, did you meet Arafat?

22 A No, I never met him face to face. I
23 actually came very close in October or perhaps early
24 November of 2004 as part of our '04 assessment.

25 Dr. Springborg and I were literally in Saeb

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1 Erekat's office in Ramallah. Erekat, that's a
2 Jericho-based family, and we were in his office. He'd
3 been the Palestinian chief negotiator for many, many
4 years, and a proud graduate of San Francisco State
5 University, by the way.

6 And we were in his office literally on our
7 way to the Muqatam to interview Arafat. This was the
8 compound in which Arafat had been essentially a
9 prisoner for a couple of years in the Ramallah area,
10 an old British military compound, and we were
11 literally on our way, about to get up and leave his
12 office when Dr. Saeb's phone rang. It was one of
13 Arafat's advisors saying Arafat has taken ill this
14 morning, so we're going to have to cancel all the
15 appointments today, and he never again had another
16 appointment.

17 Q What year was that?

18 A That was 2004, and literally he died three
19 weeks later or something.

20 Q I'm really going to botch the next name, so
21 I'll say it phonetically as if I were an American not
22 trying really. Ahmed Qurei.

23 A Qurei, yeah. Q-U-R-E-I I think is the way
24 he spells it, and he is a long-time political leader,
25 a former prime minister, and yes, I have interviewed

18 (Pages 66 to 69)

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1 Mr. Qurei.

2 Q Marwan Bargouti. Who is Marwan Bargouti?

3 A Marwan Bargouti was a long-time Fatah
4 leader, secretary general of Fatah on the West Bank
5 for a while, elected to the Palestinian legislative
6 council, ultimately convicted in an Israeli court for
7 intifada activities, and is currently in jail there
8 making access to interviewing him very problematic.

9 Q You have met him?

10 A I have not met him.

11 Q I see.

12 You described him as a charismatic
13 fellow or something like that?

14 A Yes. A lot of people, myself included,
15 believe that if in free and fair elections today,
16 particularly if he was out of Israeli prison, it's
17 quite likely that he would be elected president of
18 Palestine. Public opinion polling seems to bear that
19 out as well.

20 Q Do you know what he was convicted of?

21 A He was convicted of essentially murder or
22 helping to commit murders based on several -- I
23 believe there were five separate attacks that occurred
24 that led to several Israeli deaths, and was convicted
25 of essentially ordering these actions. That's to the

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1 al-Bireh area. It's not a large clan, but it's big
2 enough.

3 Q Who was Ra'id al-Karmi?

4 A Ra'id al-Karmi was a leader of the, or
5 purported leader of the cell of the al-Aqsa Martyrs'
6 Brigades -- AAMB is the acronym -- who was
7 assassinated by Israel in January of 2002 in -- I
8 forget whether it was in Tulkarim or Qalqilya, but in
9 the northern West Bank. I think it was Tulkarim where
10 he was assassinated.

11 Q Who was Wafa Idris?

12 A Wafa Idris was reported to have been a
13 suicide bomber, a Palestinian suicide bomber, I
14 believe the first female suicide bomber accused of an
15 attack. I believe that was on Jaffa Street in
16 Jerusalem.

17 Q So I want to ask you about your report in
18 our case.

19 So first of all, who asked you to
20 prepare the report?

21 A Brian Hill.

22 Q And who is your contract with?

23 A With the Miller and Chevalier law firm.

24 Q In connection with your report in this case,
25 did you do any field work?

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1 best of my recollection.

2 Q Civilian deaths?

3 A I believe so, yes.

4 Q Ahmed Bargouti?

5 A Ahmed Bargouti I have not met. He is or was
6 a, or reputed to be -- and again, I didn't meet him to
7 ask him -- a member or leader of Hamas.

8 Q Nasser Aweis?

9 A Nasser Aweis I do not know. I have not, I
10 have not met -- I really don't know much about him
11 personally really to comment. I know the name and the
12 report. He obviously figures in this. In reports I
13 have read some things about him, but I have not met
14 him.

15 Q Karim Abdul Aweis?

16 A Same would apply. Same answer.

17 Q Who is Abdallah Bargouti?

18 A Oh, I think I'm mistaken. Abdallah Bargouti
19 I believe is the -- excuse my mixing those two up.
20 Abdallah Bargouti is the Hamas fellow that has since
21 been killed. I'm mixing my Bargoutis.

22 Q Bargouti is a common name in the Middle
23 East?

24 A Not in the Middle East. It is a clan based
25 on the West Bank. I think they're originally from the

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1 A For this report, no.

2 Q Did you speak to any officials of the
3 Palestinian Authority or the PLO in connection with
4 the preparation of your report in this case?

5 A Specifically for this report, no.

6 Q Did you suggest to Miller and Chevalier that
7 you might like to speak to any of them?

8 MR. HILL: Hold on a second. I
9 think that calls for a communication with
10 counsel, so I'll instruct him not to answer.
11 It's protected under Rule 26.

12 BY MR. YALOWITZ:

13 Q Did you consider in preparing your report
14 speaking to any officials of the PA or the PLO?

15 A I was not asked to do field work, to travel
16 to the area, for example, so I did not, did not
17 therefore contact these officials.

18 Q Did you think it would -- there were -- did
19 you have questions in your mind about anything that
20 you opined on that it might have been useful, in your
21 view, to ask members of the PA or the PLO about?

22 A I'm not sure it would be really relevant
23 here, because I know that the law firm is themselves
24 talking with, with leaders of the PA and the PLO, and
25 so they could get those answers from other

19 (Pages 70 to 73)

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1 individuals. So what they asked me to do as an expert
2 in Palestinian politics to give my evaluation of the
3 situation, based on the work that I already did and
4 then a further reading of material for the preparation
5 of this report.

6 Q Did, did the Miller and Chevalier firm
7 provide you with any facts or data that they suggested
8 you consider in your report?

9 A They provided a number of press reports and
10 other things for me to read and to consider as well,
11 yes.

12 Q And you listed those in your --

13 A They're all listed in the report, correct.

14 Q Did they provide you -- did they say to
15 you -- not say to you. Did they either say or in
16 writing provide you with facts or data that were not
17 in press reports or other documents?

18 A No.

19 Q In other words, did you get a letter from
20 Miller and Chevalier saying I want you to assume the
21 following facts or --

22 A No.

23 Q -- or you may rely on the following facts or
24 anything like that?

25 A No.

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1 documents, particularly by Jean-Francois Legrain, who
2 is a French scholar, very well-known, and he examined
3 the documents and has written, published some
4 criticisms of those documents.

5 I also read both the statement, the report
6 and the deposition of Matthew Levitt, Dr. Levitt, who
7 has written extensively on these documents.

8 Q Did you read the expert report of Yossi
9 Kuperwasser in the Menton case in Tel Aviv?

10 A No, I did not.

11 Q Did you read either the opinion of the
12 Menton case or a translation of the Menton case?

13 A I have not been involved with the Menton
14 case at all.

15 Q Did you read the report of FBI agent Dale
16 Watson about the documents?

17 A I did not.

18 Q Did you read any of the court opinions in
19 the Holy Land Foundation cases dealing with those,
20 that collection of documents?

21 A I would have. I was actually asked to be an
22 expert witness in that case, but, in fact, when they
23 were going to go to trial, I was going abroad, so I
24 could not participate. So I did not read them then
25 either.

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1 Q One of the things in your report that you
2 discuss is documents that were reported to have been
3 seized in Operation Defensive Shield; right?

4 A Yes.

5 Q Did you think it might be worth your while
6 to ask the members of the Palestinian Authority or
7 representatives of the Palestinian Authority whether
8 those documents were indeed authentic?

9 A I did not ask any members of the Palestinian
10 Authority their opinions on those documents. I did go
11 to the actual source via email, asking, asking
12 permission to come examine those documents and was
13 told that -- because online I couldn't get them.
14 They were dead links, and so I emailed the source in
15 Israel asking for permission to examine those
16 documents, and they declined, saying that the IDF was
17 now in control of all the documents.

18 Q Did you, did you make any similar inquiries
19 to the PA about the documents?

20 A I did not.

21 Q Did you, did you read any court opinions in
22 which the PA was a defendant in which the documents
23 were offered in evidence?

24 A What I've read about the documents, I've
25 read some academic criticisms of some of the

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1 Q So, and other than what you've described,
2 did you do any other work to make a judgment about
3 whether the documents are or are not authentic?

4 A I followed the, the case at the time, and --

5 Q Which case?

6 A With the ODS documents, the Operation
7 Defensive Shield in March/April 2002. I actually have
8 talked to some people that were involved in that after
9 the case or after it happened, and I and I would say
10 the large majority of academics who would look at this
11 believe those documents are tainted and cannot be
12 trusted.

13 Q Do you have a -- are you offering a legal
14 opinion on whether the documents are authentic?

15 A I'm offering a scholarly opinion that we
16 simply, given the chain of command or the control of
17 the documents, how they were taken, who had them, how
18 they were released, that a scholar simply cannot rely
19 on them, at least those that have been released
20 publicly. We don't even know if all of them have been
21 released. Have there been any -- have any documents
22 been tampered with? Are there forged documents or
23 documents that haven't been released that are
24 exculpatory, for example, politically or legally? We
25 just don't know. They were frankly badly mishandled

20 (Pages 74 to 77)

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1 by the IDF in its operation, and so therefore the
2 documents are frankly unreliable from a scholarly
3 point of view.

4 Q So let me just make sure I have it right.

5 You're expressing your views about what
6 an academic scholar might consider; right?

7 A Correct.

8 Q And you are not expressing -- you're not
9 offering a legal opinion on the authenticity of the
10 documents?

11 A I'm not qualified to offer a legal opinion.

12 Q And certainly if, if, if somebody from the
13 PA thought that the documents were forged, they would
14 be able to come forward and say these documents are
15 forged; right?

16 MR. HILL: Objection. Calls for
17 speculation. Lack of foundation. The
18 witness can respond if he knows.

19 THE WITNESS: Anybody from the PA
20 can say anything they want. I have not
21 talked to them about this particular issue.

22 BY MR. YALOWITZ:

23 Q Has the PA ever publicly denied the
24 authenticity of the documents, to your knowledge?

25 A I have no idea one way or the other.

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1 authenticity and the legitimacy of the document.

2 Q I mean I'm not talking about like ODS -- I
3 understand your views on the Operation Defensive
4 Shield documents. I mean a document that the PA puts
5 on its website and says, you know, this is information
6 about us.

7 A Yes. So then again, one would have to use
8 professional judgment in order to, to come to a
9 conclusion. So for example, when Salam Fayyad, when
10 he was Prime Minister and put the PA budget online,
11 which I did look at, actually, from time to time, I
12 assessed that that was a reliable document and would
13 take it at face value.

14 Q Did you consult with statements of PA
15 leaders provided in interviews?

16 A In the documents in the report, there are a
17 number of quotes from PA leaders that I would have,
18 would have read and then some cases perhaps included
19 in the report.

20 Q And again, statements that leaders give to
21 the press, that's a source of information that it's
22 reasonable for people in your field to rely on?

23 A It's a source of information that needs to
24 be balanced and weighed in totality to assign it a
25 level of credibility.

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1 Q All right.

2 So let's talk about some of the sources
3 you rely on in your expert report in this case.

4 A Okay.

5 Q You cite some scholarly articles; right?

6 A Mm-hmm.

7 Q You -- do you rely on government reports --
8 I think you do -- like State Department reports?

9 A I do consult government reports, yes.

10 Q And is it reasonable for scholars in your
11 field of political science to rely on government
12 reports?

13 A It's quite common to use government reports.
14 The level of reliability depends on what government,
15 you know, what do we know about the documents. We
16 have to assess, assess the reliability.

17 Q Do you -- did you rely on any documents or
18 information found on the website of the Palestinian
19 Authority itself?

20 A I did not consult a PA website in
21 preparation of this report.

22 Q Would it be reasonable to rely on documents
23 provided by the PA?

24 A Again, one would have to know the history of
25 the document and make a reasoned judgment as to the

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1 Q I think what you're saying is people say
2 things, and then you can evaluate what you might take
3 from that.

4 A People say things for a number of different
5 reasons. I don't always take them at face value.

6 Q You mentioned in your report that you relied
7 on other publicly available resources, something like
8 that, other publicly available sources; is that right?

9 A Yes, I mean every day I read newspapers from
10 the region. I have discussions with professionals. I
11 go to professional conferences. We talk about these
12 issues, you know, over panels or over beers. It's --
13 well, I guess talking with other professionals over
14 beers, it would probably not be publicly accessible,
15 but the other things would be.

16 Q So is there any way you could reconstruct
17 all of the various publicly available resources you've
18 consulted?

19 A All of the, all of the documents that
20 pertain to the report that I wrote are listed in the
21 document, so there's nothing of, of substance in my 30
22 years of, you know, looking at this area that, that I
23 would be exposed to that's substantively important and
24 is not listed. They're all listed in the report.

25 Q And what did you understand the report, the

21 (Pages 78 to 81)

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1 purpose of the report to be?

2 A I was asked to evaluate a number of
3 questions that had to do with PA and/or PLO control
4 and relations with various groups; for example, the
5 relationship between the PLO, Fatah, AAMB, for
6 example; the relationship between PA, PLO, Fatah,
7 Hamas; or the Palestinian Islamic Jihad; just sort of
8 sort out what these issues were, what was the level of
9 competency in terms of the Palestinian institutions,
10 both police security institutions and governance
11 institutions more broadly.

12 Q Were you evaluating those from a political
13 point of view or from a causational point of view?
14 What was the sort of perspective you offered?

15 A Most of what we were talking about is really
16 two things. One is strength of institution, so
17 institutional capacity over time in the Palestinian
18 Authority; and two, had to do with essentially
19 political relations between various, various trends in
20 Palestinian society.

21 Q And so let's take those in reverse order.
22 With regard to political trends in
23 Palestinian society, that seems to me to be
24 something that you studied a lot over the course
25 of the field work you and I discussed earlier

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1 today.

2 Is that fair to say?

3 A That's fair to say.

4 Q And then with regard to the first one, which
5 was the -- say what it was.

6 A Institutional capacity of the PA.

7 Q Institutional capacity of the PA, did you
8 pay particular attention in your expert report in this
9 case to institutional capacity of the security forces?

10 A In the report, yes, there was a particular
11 focus on the institutional capacity, primarily command
12 and control issues of the PA.

13 Q And do I have it right that that's something
14 that you weren't focused on, from what I could tell
15 from our discussion this morning, until your 2006
16 field work?

17 A The -- no, I don't think that would be fair
18 to say. The -- even in the stuff that we were reading
19 from the '90s, in those places I already have
20 discussions about the, essentially the state of play
21 of the police and security forces and the multiplicity
22 of forces and the political rationale for multiplying
23 forces, the reporting mechanism that is essentially
24 reporting directly to the center instead of up the
25 chain of command. All these issues I was talking

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1 about as early as those 1990s documents we looked at.

2 Q And then you mentioned -- remember when we
3 looked at the 2005 comment you made about the security
4 forces? You said, well, that was really incomplete
5 and I would add some comments about intra-security
6 force command and control?

7 A Yeah, that sentence really was dealing with
8 the relations between Arafat and the top commanders.
9 A more complete picture looking down the chain would
10 show significant degradation, both in capacity and in
11 command and control issues.

12 Q And my impression is that you really focused
13 on that command and control issue in your '06 field
14 work.

15 Do I have that right?

16 A Do you mean going down the chain?

17 Q Yes.

18 A Yes.

19 Q Is that fair to say?

20 A I think that is fair to say, yes.

21 Q Okay, and is it fair to say that prior to
22 '05 when you published the statements about, well, the
23 statements that we looked at, the sort of "After
24 Arafat" statements, that you hadn't focused as much on
25 the internal command and control issues that you were

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1 describing in your expert report in this case?

2 A No, I don't think that's fair to say. As
3 I've stated, this was an issue that I was already
4 writing about in the 1990s in those various documents
5 we looked at, because the, the instruments of the
6 means of coercion by any state or proto state are
7 always a key, a central feature of the political
8 landscape, so from the very beginning that was an
9 issue of concern to me.

10 Q Okay. I think I understand your opinions.

11 I guess I have to go back and look,
12 because when I read through your book, I didn't
13 see anything about degradation or a lack of
14 internal command and control, but I'm going to
15 look, and you should feel free to look, too, and
16 maybe I'll ask you about it after lunch.

17 MR. HILL: Wait for a question.

18 BY MR. YALOWITZ:

19 Q Does that sound fair to you?

20 MR. HILL: Object to the question.

21 Vague.

22 The witness can respond.

23 THE WITNESS: The issues in the
24 1990s having to do with police and security
25 forces, at that point in time you did not see

22 (Pages 82 to 85)

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1 a degradation of command and control down the
2 line. You saw attempts to build. It was
3 always very, very weak.

4 And the main issue at that point in
5 time was the multiplicity of police and security
6 forces. Again, this is -- it's an old strategy.
7 It's a coup proofing strategy that you see in
8 many, many third world countries. So that was
9 really the pressing issue.

10 The degradation of command and control,
11 you know, again it never was very high to begin
12 with, but the actual reversal, the actual
13 degradation came early on in the Second Intifada
14 when the institutional network, institutional
15 framework of the police and security forces was
16 essentially destroyed by Israel.

17 BY MR. YALOWITZ:

18 Q Thank you. I think that's helpful.

19 Did -- you mentioned that you've looked
20 at the annual budget of the PA and you found it
21 reliable?

22 A At times. When Salam Fayyad, for example,
23 was prime minister.

24 Q Do you know in rough numbers what the annual
25 budget of the PA is today?

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1 activities, and I presume and I hope that it's based
2 on, on reasonable evidence and conclusions drawn from
3 reasonable evidence.

4 Q Are you familiar with decisions by the State
5 Department not to designate an organization as a
6 terror organization even though the State Department
7 has credible evidence that the organization has
8 resorted to acts of terror?

9 A I would imagine it would, it would be
10 reasonable to look at the totality of evidence. The
11 US military, individuals in the US military have
12 engaged in acts of terror. One fellow is currently on
13 trial for having done so in Afghanistan. Does one
14 then therefore classify the US military as a terrorist
15 organization? I would sure hope not.

16 So I would presume -- again, I don't have
17 firsthand knowledge of this, but I would presume the
18 State Department in its evaluation would look at the
19 totality of evidence to draw a conclusion as to
20 whether this is an organization or a state that, that
21 sponsors terrorism.

22 Q If the State Department has credible
23 evidence that an organization is a sponsor of
24 terrorism but chooses for political reasons not to
25 designate the state or organization as the sponsor of

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1 A Yes. I just need to think about it now.

2 In my report I cite the World Bank study,
3 and I deal with the, with the budget. It's order of
4 magnitude several billion dollars a year, maybe
5 four billion a year of revenue, but I would want to
6 consult exactly, but that's not going to be too far
7 off.

8 Q You mention in your report, you talk about
9 certain organizations that have and have not been
10 designated as terrorist organizations?

11 A Correct.

12 Q Do you -- have you ever been involved in the
13 designation of an organization as a terrorist
14 organization?

15 A I have not.

16 Q Do you know what political factors go into a
17 decision to designate or not to designate an
18 organization as a terrorist organization?

19 A Not from firsthand experience.

20 Q How about from secondhand experience?

21 A Certainly there is a -- this is the State
22 Department that puts out this annual list and does the
23 designation, and I presume that it's based on strong
24 evidence of groups that either participate in terror
25 activities or who do not participate in terror

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1 terror, do they make an announcement to that effect?

2 A I have no idea. I'm just not involved in
3 that process.

4 Q All right.

5 By the way, would you like some more
6 water?

7 A Sure. One more would be great. Thank you.

8 Q Now, when we speak of terrorism, that's a
9 word that has some elasticity, I suppose, so I'd like
10 to see if we can agree on a working definition.

11 So when I ask you questions about
12 terrorism and when I've been talking about
13 terrorism, what I'd like to focus on, if it's
14 agreeable to you, is the, is the indiscriminate
15 killing or injuring of civilians for political
16 purposes.

17 A That's a fair enough definition.

18 Q Okay, great.

19 A The only thing that I would add to that is
20 arbitrarily selected civilians. It doesn't matter
21 what name they are. It can be any group from the
22 group that you're attacking.

23 Q Fair enough. That was what I intended to
24 capture with "indiscriminate," but I'm happy to go
25 with your "arbitrary."

23 (Pages 86 to 89)

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1 A We're on the same page.

2 Q Okay.

3 Now, there was -- and I take it that you
4 and I can agree that whatever one's political
5 goals might be, terrorism, as you and I have
6 agreed on it, is not a legally acceptable tool for
7 achieving those goals?

8 A Correct.

9 Q Now, and you understand that the United
10 States Congress has passed a statute that allows
11 people who are injured by acts of terrorism to seek
12 redress from, from those who have caused their
13 injuries; right?

14 A I haven't read the law, but I understand
15 that something like that is in effect, which is why
16 we're here.

17 Q And that's -- whatever the law is, that's a
18 policy judgment that the United States Congress made
19 and together with the President who signed the
20 legislation; right?

21 A And I believe it's a reasonably new law as
22 well. This is not a law that was in place 50, 60, 70
23 years ago. I believe it's a law that dates from the
24 1980s, if I'm not mistaken.

25 Q Even though it's not really my -- I'm

1 agent of the United States, then you should be able to
2 seek redress for your injuries, and the United States
3 should pay for that redress; right?

4 A It depends on the circumstances.

5 Q Assuming that --

6 A If I'm commissioning a bank robbery and I
7 get shot in the leg, I don't think I have much a case
8 to seek redress.

9 Q Sure, sure. The limits of the law still
10 must apply in circumstances we're discussing; right?

11 MR. HILL: Objection. Vague.

12 The witness can respond if he can.

13 THE WITNESS: Presumably.

14 BY MR. YALOWITZ:

15 Q Right.

16 All right. Let me ask you about a
17 statement you make on page 5 of your report, and
18 you just tell me why you put it in. So I guess I
19 need to look at it.

20 (Discussion was held off the
21 record.)

22 BY MR. YALOWITZ:

23 Q All right. I'm looking at page 5 of your
24 report.

25 Do you have it before you?

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1 supposed to be asking the questions, but I'll tell you
2 it's from the '90s.

3 A '90s. Even more recent.

4 Q All right.

5 Now, one of the things that -- one of
6 the things that I think -- well, let me ask you
7 this.

8 Do you agree that one of the things that
9 is a hallmark of good government is for government
10 entities to pay their just debts?

11 A That seems to be an issue in Washington
12 these days, but yes, I would agree that that would be
13 a hallmark of good governance.

14 Q And, and that's -- we have that in the
15 United States, right, where if you make a contract
16 with the United States, you should be able to expect
17 that the United States will honor that contract;
18 right?

19 A In theory, but I think increasingly this is
20 in doubt.

21 Q And that's -- you and I would agree that's
22 not a good sign of good governance; right?

23 A If it's in doubt, that's not a good sign of
24 good government.

25 Q And similarly, if you are injured by an

1 A I do.

2 Q At the very top of the page you make a
3 statement. "Political acts aimed at destabilizing or
4 destroying the financial well-being of the PA hinder
5 its ability to achieve what the US and the
6 international community have clearly stated are the
7 desired end goals of peace and stability in Israel and
8 Palestine."

9 Do you see that?

10 A Yes.

11 Q What did you mean by that?

12 A Any kind of attacks here, political attacks
13 that seek to defund the PA, to undermine its
14 legitimacy, to basically marginalize the PA makes it
15 that much more difficult to get to a two state
16 solution, which has been the policy of the United
17 States and pretty much the rest of the world for a
18 number of years now.

19 So that -- the PA is, you know, for warts
20 and all, that's probably true for any government, but
21 the PA is a central component of the solution if there
22 is to be a solution, which is why the United States
23 government has invested hundreds of millions of
24 dollars into the survival of the PA over, over the
25 years.

24 (Pages 90 to 93)

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1 Q And were you suggesting -- by including this
2 statement in your report, were you suggesting that
3 these political goals that you've mentioned should
4 affect the judgment of the courts or the jury in
5 evaluating the actual facts in our case?

6 A I'm just stating a fact here, that the PA
7 has been seen by the US as a central part of getting
8 to any sort of a solution. There are people on every
9 side that do not want a two state solution, and they
10 may engage in attacks to try and undermine or
11 destabilize and destroy the PA.

12 Q But I mean were you -- when you made this
13 comment in your report, were you commenting about our
14 case, or were you commenting more generally about the
15 political milieu in which the PA finds itself?

16 A I was I think making the comment that's
17 clear on the page, and that is the PA is part of, part
18 and parcel of what the US wants to achieve in the
19 region in terms of a two state solution, and those
20 that are opposed to a two state solution may seek to
21 undermine and delegitimize or even destroy the PA in
22 order to prevent a two state solution from emerging.

23 It says what it says. I mean I'm not trying
24 to, you know, sneak in anything else. This is the
25 clear intent of the sentence.

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1 Q Let me just try again, because I'm not -- I
2 appreciate your answers, and I'm not trying to be
3 critical, but I'm also not sure I understand the
4 answer to my question, which is: Are you suggesting
5 by this statement that the political goals you're
6 expressing here should affect the outcome of our case?

7 A I have -- this is for the judges and juries
8 to decide. That is not my concern.

9 I would draw your attention to what comes
10 immediately before that sentence, which is this
11 diagram of various groups that both support and oppose
12 a two state solution.

13 So what I'm suggesting is that those people
14 in Israel and amongst the Palestinians, in America,
15 wherever, those groups and individuals that oppose a
16 two state solution, one of the things that they do --
17 this is just a factual statement -- is to try to
18 delegitimize, destroy and undermine the Palestinian
19 Authority.

20 Q So do you think it would destroy the
21 Palestinian Authority to pay its -- well, let me ask
22 you this.

23 If the court and the jury conclude that
24 the Palestinian Authority is financially
25 responsible to the plaintiffs for their injuries,

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1 do you think that would destroy the PA?

2 MR. HILL: Objection. Incomplete
3 hypothetical.

4 The witness can respond if he can.

5 THE WITNESS: I have no idea what
6 the judge or juries will decide. That's
7 above my pay grade. I just suggest again, if
8 you look on the page before, all of those
9 groups that are underneath that line would
10 have -- because they are opposed to a two
11 state solution, would have an incentive to
12 either directly or indirectly undermine the
13 Pa, and we have a history of that actually
14 happening. This is not a hypothetical.

15 BY MR. YALOWITZ:

16 Q Where, if anywhere on your grid on page 4,
17 would you put people who had a family member injured
18 or killed by a terrorist attack inside of Israel?

19 A These are -- the people and groups
20 identified on this grid are various types of political
21 organizations. You're talking about individuals, so
22 they would not, they would not go on the grid.

23 Q Okay. I think that's helpful.

24 All right. Now, I want to ask you about
25 the evidential basis for some of your statements

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1 in your report which are not footnoted. I noticed
2 in some places you're pretty rich in footnotes and
3 in some places not as rich, so let's look at page
4 14 of your report.

5 A For the record, there are 168 footnotes in
6 the 68-page report. That's not too bad.

7 Q I think some of the -- some of your opinions
8 are very richly footnoted.

9 So --

10 A I'm sorry. Page 14?

11 Q Page 14.

12 A Okay.

13 Q So at the bottom of the page there are two
14 sentences involving systemic control and command
15 capabilities.

16 Do you see those two sentences?

17 A Yes.

18 Q And I notice that neither one of those has a
19 footnote reference. So I was just wondering what the
20 evidential basis for your views in those two sentences
21 is in particularly the early 2001 time frame.

22 A Those statements are repeated elsewhere in
23 this report where they are footnoted. I footnoted an
24 economist article that talks about it, for example,
25 and other academic works were also footnoted on the

25 (Pages 94 to 97)

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1 same subject elsewhere in the report.

2 Q So let's look at the -- I noticed that
3 economist article. Where was that? Let's take a
4 moment to find it. Do you remember?

5 A Not off the top of my head. I'd have to
6 look through the footnotes to --

7 Q Sure. Let's see if we can find it.

8 A I mean this whole section from which the
9 sentence you talk about provides examples of the lack
10 of command and control, and that contains a number of
11 footnotes for including, in this case, Human Rights
12 Watch, an academic article by Anne Marie Baylouny,
13 part of a book by Friedrich and Leuthold, and they are
14 all getting at that same lack of command and control.

15 Q Is the basis for your opinions about the
16 lack of command and control set forth -- so if you
17 just look, beginning on page 13 and ending on page 15,
18 this is a section about al-Aqsa Martyrs' Brigades.

19 Is that section the source material for
20 your conclusion that by 2001 neither the PA nor
21 Fatah had systemic command and control
22 capabilities remaining?

23 A It's not the only source.

24 MR. HILL: Objection. Misstates
25 the testimony, but the witness is going to

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1 if you'd like me to.

2 Q Why don't we take a moment and you can just
3 identify which ones you think support that early '01
4 time frame. Thank you.

5 A Okay.

6 A number of these, for example, in footnote
7 1 you had two sources that were published later on. I
8 don't remember off the top of my head if they, they
9 were published respectively in 2011 and 2010. To what
10 degree they went back to 2001 I could not recall off
11 the top of my head.

12 The Ephraim Lavie article cited in footnote
13 9 that was published in 2010 deals with the, that
14 early period in particular as well as other things
15 that Lavie has both said and written.

16 Q You found Lavie to be a reliable source?

17 A Yes, and he certainly has the credentials to
18 substantiate that. I mentioned the Human Rights Watch
19 one and did, in fact, reflect the situation early '01,
20 '02.

21 Q You found the Human Rights Watch to be a
22 reliable reporter of the facts as well?

23 A Generally. The author of that watch, Joe
24 Stork, I know, and I find him to be reliable. I
25 thought -- I thought his description of the relations

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1 explain.

2 THE WITNESS: Sure. It is not the
3 only source. Peppered throughout this report
4 there are examples of that lack of command
5 and control and I think plentiful citations
6 to substantiate it.

7 BY MR. YALOWITZ:

8 Q And just off the top of your head, do you
9 have any in mind that relate to the time period 2001?

10 A Do I have in mind a particular source that
11 gets to command and control in the year 2001?

12 Q Right, by early 2001.

13 A Off the top of my head, of the many sources
14 that I cite here, I don't recall which one would be
15 specific to 2001.

16 Now, the Human Rights report, since that was
17 written I believe in October of 2002, it presumably
18 reflects much of the situation on the ground in '01
19 and early '02. So that would just be one example, but
20 there would be other -- again, I'd have to go through
21 footnote by footnote, but there would be other
22 examples as well.

23 Q All right. Any others that come to mind
24 just as we sit here?

25 A Well, I could go through all the footnotes

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1 between the various groups was accurate from my
2 experience. Frankly, I thought that he was -- can I
3 say a little bit naive about the political context in
4 terms of, for example, prosecution of perpetrators of
5 suicide bombings.

6 Absolutely agree in principle, but it's kind
7 of hard to do that under the conditions of -- when
8 you're under siege in the middle of an uprising, the
9 institutional framework to deal with law-and-order
10 issues has been essentially destroyed. It makes
11 dealing with that difficult, maybe not impossible, but
12 very hard, and I thought he underestimated the
13 difficulty. So I don't agree with everything in that
14 report, but I think the description of relations
15 between groups was quite good.

16 The Friedrich and Leuthold book, the edited
17 book published in '07, also deals with some of that
18 earlier period as well, because it gives a historical
19 overview of the, of the security forces from the
20 beginning of the PA process.

21 Q Did you find the Friedrich and Leuthold book
22 to be a reliable resource?

23 A Yes, I did.

24 I believe the Nigel Parsons book as well,
25 "Politics of the Palestinian Authority." It's an '05

26 (Pages 98 to 101)

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1 book. I think he also dealt, as I recall, with the
2 security sector to some degree, including in that time
3 frame of '01 early in the Intifada.

4 On page 20 there are a couple of press
5 sources. One from Ha'aretz. That's footnote 43. One
6 from UPI. That's footnote 46. One from Ha'aretz,
7 Danny Rubenstein from Ha'aretz. That's October 2001.
8 Those all deal with the security situation, and I
9 would review all of them as reliable sources.

10 Q Did you also rely on the UN chronology?

11 A I did in a number of citations, yes.

12 Q When you wrote in your --

13 A I'm sorry, counsel. I'm still going through
14 to answer your last question.

15 Q Oh, okay.

16 A Do you want to move on, or shall I keep
17 going through the footnotes?

18 Q Why don't we take another moment and
19 continue with the footnotes. I get distracted, but
20 please, go ahead. Thank you.

21 A Okay.

22 Footnote 50, BBC Monitoring, that appears --
23 it's an article on the cease-fire, so that would
24 presumably refer to the security situation. That's
25 November of '01.

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1 A Included in -- in addition to the things
2 that are actually reported, my field work to some
3 degree in '04 but particularly in '06 what I'm dealing
4 with, intra-Palestinian violence, that would -- and
5 that would be contained in that other report we
6 mentioned -- certainly substantiated this notion of an
7 essentially destroyed law-and-order infrastructure.

8 Q Thank you. I think that's very helpful.

9 Now let's look together at page 33. So
10 you have a subsection about Hamas.

11 Do I have that right?

12 A Hamas. Close enough for government work.

13 Q Is there any, is there any evidential basis
14 for your conclusions in this subsection that you have
15 not cited in the footnotes to this subsection?

16 A The relevant material that went into my
17 substantive conclusions in this section are all here
18 cited.

19 Q So then let's look at pages 46 and 47
20 together. So I'm actually directing your attention to
21 46, 47 and 48.

22 Are you with me?

23 A Yes.

24 Q You -- this is a section about command and
25 control capability in the PA forces prior to the

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1 Q Did you find the BBC to be a reliable
2 reporter of the facts?

3 A The BBC itself is. In some cases they just
4 report other sources, so it would depend on the other
5 source that they're quoting. So again, have to take
6 that into consideration.

7 Same thing with footnote 51. That's a UPI
8 article that has to do with the security situation,
9 the call to end attacks.

10 Q So are you focused -- for example, in 50 and
11 51, you think those support the proposition that by
12 early 2001, the command and control structure had been
13 destroyed?

14 A I thought the question was what are the
15 sources that I quote in the report that are pertinent
16 to my reaching that conclusion, so those are the
17 sources that I'm looking at that I footnoted.

18 Q All right. So we've had a little
19 miscommunication. Let me, let me focus you -- well,
20 you know what? I'm not sure it's worth it. Other
21 than -- let me ask you a different question.

22 Other than what source material you've
23 provided in the report, what evidential basis, if
24 any, do you have for your statements at the bottom
25 of page 14?

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1 Second Intifada?

2 A Mm-hmm.

3 Q Do I have that right?

4 A Correct.

5 Q And you have six paragraphs on page 47 and
6 48 that are not footnoted.

7 A There are two footnotes on the bottom of 48,
8 but they may pertain to the subsequent paragraph.

9 Q I'm sorry. Are you on 46 and 47?

10 A I thought you had said 46, 47, 48.

11 Q Right. So let me break that section into
12 two parts.

13 A Okay.

14 Q The first part is the first six paragraphs.
15 Do you have that?

16 A Yes.

17 Q And that reflects your general opinions
18 based on your field work and experience and so forth;
19 right?

20 A Yes.

21 Q And that section is not footnoted that we're
22 talking about, that subsection; right?

23 A That's correct. This -- basically it
24 summarizes work that I've published elsewhere, some of
25 which we've gone over today.

27 (Pages 102 to 105)

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1 Q And some of which -- so just so I have it
2 right, some of the things in this -- we'll call this,
3 this six paragraphs echos themes in your book, for
4 example; right?

5 A Yes, correct.

6 Q And then is the -- are the themes that you
7 have expressed in these six paragraphs consistent with
8 or different from the comments that you made in the
9 report that you provided to USAID after your 2006
10 field work?

11 A They certainly wouldn't be inconsistent.

12 Here I'm dealing with four things. One, the
13 lack of professional training by members of the
14 security force; the inside/outside split which was
15 very important, particularly in the 1990s; not good
16 organizational command and control, these multiple
17 forces that we talked about; and the
18 deinstitutionalization.

19 So I don't recall in the '06 report if I got
20 into these things in great detail, but they are common
21 themes that I have visited in a number of publications
22 over the years.

23 Q And is your, is your -- are your -- for
24 example, in -- I'm not asking a good question.

25 May I direct your attention to the

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1 Q They say, "The absence of a legal framework
2 and weak legislative and judicial oversight over the
3 security sector meant that security personnel were
4 rarely held accountable for violations of the law."

5 Do you see that?

6 A Yes.

7 Q You agree with that; right?

8 A Yes.

9 Q I want to ask you about a comment you made
10 on page 55 of your report.

11 A Mm-hmm.

12 Q You wrote at the bottom paragraph,
13 "Virtually all attacks against Israeli civilian
14 targets undertaken during the Second Intifada were
15 conducted by factional militia and disorganized local
16 cells and individuals, not by PA forces acting qua PA
17 forces."

18 What did you mean by that?

19 A What it says on the paper, and that is the
20 violent forces, violent attacks, virtually all of
21 these attacks were not cases of orders from leading PA
22 individuals to go out and attack.

23 Instead, they were factional militia, Hamas,
24 Palestinian Islamic Jihad, after a while the al-Aqsa
25 Martyrs' Brigades, popular resistance committees, the

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1 paragraph that begins "third" on page 47?

2 A Mm-hmm.

3 Q This is a paragraph that describes your
4 views about the structure of the forces not
5 encouraging good organizational command and control
6 operations.

7 Fair to say?

8 A Yes.

9 Q How does that opinion compare to the opinion
10 you expressed in your 2006 report to USAID?

11 A Sitting here without the report in front of
12 me, I don't recall whether I got into that discussion
13 in the '06 report on this particular issue. If I did
14 get into that discussion, it would reflect these same
15 ideas. It wouldn't be anything different.

16 Q Then if I could direct your attention to the
17 paragraph that begins "Friedrich and Leuthold" at the
18 bottom of page 47?

19 A Yes.

20 Q I think what you're -- do I have it right
21 that what you're saying there is Friedrich and
22 Leuthold's conclusions about the Palestinian security
23 sector are similar to my conclusions? Is that fair to
24 say?

25 A Yes, that's fair to say.

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1 PRCs in Gaza. These are kind of ad hoc groups of guys
2 that have decided to do, to undertake an attack.

3 In some cases some of those folks that did
4 the attack were employed by PA security personnel, but
5 they were undertaken -- I think the evidence suggests
6 very clearly the attacks that they were undertaking
7 with some of their neighbors, for example, were of
8 their own initiative.

9 Just as an example, we see and we talked
10 about the Human Rights report. If you look at page
11 134 of the Human Rights Watch report, it will talk
12 specifically from the commander in the Bethlehem
13 preventive security, who is very clear in saying our
14 orders were always never to attack, and the only time,
15 the only exception to that is when people themselves
16 came under attack, so it was essentially self-defense.

17 So there's significant evidence that the, as
18 I say, virtually all of these attacks are ones that
19 were undertaken by political militia, militia attached
20 to political factions, and essentially just groups of
21 guys, you know, that were feeling they were defending
22 their neighborhood, their families, their whatever,
23 and undertook attacks.

24 Q Are you expressing an opinion about the
25 seven attacks in our case?

28 (Pages 106 to 109)

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1 A My opinion here is a general opinion about
2 what happened. I'm not privy to some of the details
3 about the specifics in the Sokolow attacks in general,
4 so this is a general opinion.

5 Q Did you read any of the materials from any
6 of the 21 criminal prosecutions that were highlighted,
7 for example, in the report of Nick Hoffman?

8 A I did not read Nick Hoffman's report to my
9 knowledge.

10 Q Have you had the opportunity to read any of
11 the indictments, convictions, post-arrest statements
12 or sentencing statements of any of the 21 individuals
13 convicted of crimes in connection with our seven
14 attacks?

15 A Not to my knowledge, no.

16 Q And you did read the reports of Eviatar and
17 Shrenzel; right?

18 A Correct.

19 Q And did you notice that both of those
20 reports expressed some general opinions and then some
21 detail, the analytical work about the seven attacks?

22 MR. HILL: Objection.

23 Mischaracterizes the reports, but the witness
24 can respond.

25 THE WITNESS: The thing that stuck

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1 A I'm not a lawyer. I do not know the
2 details.

3 Q All right.

4 I take it you're not ascribing any ill
5 motives to Shaked for withdrawing; right?

6 A No. What I'm doing is applying an academic
7 standard. If I get a paper from a student, and then I
8 get the 99 percent word for word same paper from
9 another student, that's an F. That's plagiarism. It's
10 not acceptable.

11 If it's acceptable in the legal world, I
12 don't know. I'm not a lawyer, but it's certainly not
13 acceptable in the scholarly world.

14 Q Fair enough, and you're not applying legal
15 standards?

16 A I'm not qualified to do so.

17 Q All right.

18 Now, let me try to ask a little narrower
19 question, which is: In both the Eviatar report
20 and in the Shrenzel report, there are some general
21 comments about the nature of the Second Intifada;
22 fair to say?

23 A Fair to say.

24 Q And then in each of those reports there are
25 more focused comments on the particulars of the seven

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1 out in Eviatar's report was it was the exact
2 same report that came from Ronnie Shaked. He
3 currently works at the Truman Institute, he's
4 a long-time journalist, almost word for word,
5 almost verbatim the exact same report.

6 So I don't know who wrote those
7 reports, and I cannot speak to things they claim
8 to be factually true. In some cases pertaining
9 to the specifics of the cases, I have no opinion
10 on.

11 BY MR. YALOWITZ:

12 Q Let me ask it again, and I appreciate your
13 answer, but I want to ask a little narrower question.

14 Well, by the way, do you know why Shaked
15 withdrew as an expert in this case?

16 A I do not.

17 Q Do you know -- do you know him?

18 A Not personally. I know who he is.

19 Q All right. You don't know what his wife's
20 health situation is, for example?

21 A I do not know his personal situation.

22 Q All right.

23 Are you familiar with the rules allowing
24 experts substitution in cases where an expert is
25 unavailable?

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1 attacks in our case; right?

2 A I believe that's true.

3 Q Okay.

4 Did you -- and I assume you were
5 familiar with the source material that each of
6 those individuals cited with regard to their more
7 general comments; fair to say?

8 A I'm not sure that's fair to say, because on
9 a number of cases -- and I'm trying to -- I mean I
10 read all -- I read six statements from your witnesses,
11 so forgive me if they blend a little bit.

12 Q That's all right.

13 A There were a number of sources -- this was
14 particularly true with Dr. Levitt, but I think it was
15 true with some of the others as well -- where I went
16 to look up the sources that were cited, and they no
17 longer exist online, so I can't comment on them.

18 Q All right.

19 Now, did you request those, copies of
20 those sources from the Miller and Chevalier firm?

21 MR. HILL: Objection. I think it
22 calls for communication with counsel. I'll
23 instruct him not to answer.

24 BY MR. YALOWITZ:

25 Q Did the Miller and Chevalier firm provide

29 (Pages 110 to 113)

Page 114

1 you with copies of sources that were cited in the
2 documents that you had trouble finding?

3 A I don't believe so, and I don't -- I mean it
4 provided the reports, asked me to comment on them. I
5 did so in my report. I independently tried to verify
6 some of the sources, in some cases was able to do
7 that, in some cases was not able to do it, because the
8 sources were no longer online.

9 I'll end there.

10 Q Okay.

11 To the best of your recollection, did
12 anybody from the Miller and Chevalier firm provide
13 you with copies of sources that were not available
14 online that were cited in the Shrenzel and Eviatar
15 reports?

16 A I don't believe that ever happened. I don't
17 recall it ever happening.

18 Q Did, did you read any of the internal PA
19 documents cited in the Shrenzel and Eviatar reports
20 about things like pay and promotion?

21 A In the so-called "ODS documents"?

22 Q No. Both Shrenzel -- are you familiar with,
23 in the Shrenzel and Eviatar reports, citation to
24 evidence suggesting that individuals convicted of the
25 21 attacks -- I'm sorry -- seven attacks who are now

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1 specific to that issue.

2 Q By the way, the policy you described of
3 paying individuals who are in jail convicted of
4 national struggle crimes, for lack of a better word,
5 does that apply to individuals who are convicted of
6 street crimes?

7 A To my knowledge, it does not. To my
8 understanding, it only applies to those involved in
9 the, again, the nationalist struggle events.

10 Q So basically do I have it right that
11 individuals convicted of political crimes are
12 supported, but individuals who are convicted of crimes
13 of venality are not supported?

14 A That is my understanding. I can't swear to
15 it, but that is my belief, yes.

16 Q Well, I think you are. I mean you're under
17 oath, so --

18 A Well, I'm swearing to that is my
19 understanding.

20 Q All right, and similarly it's your
21 understanding that the PA policy is that people who
22 die in the course of committing political crimes,
23 their family is entitled to payment, but people who
24 die in the course of committing crimes of venality,
25 their family is not entitled to payment; is that

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1 in jail in Israel, remain on the payroll of the PA?

2 MR. HILL: Objection. Misstates
3 the record.

4 The witness can respond.

5 THE WITNESS: I am familiar with
6 the general PA policy that essentially across
7 the board, no matter who you are or what you
8 did, if you are in jail for having
9 participated in the "national struggle," as
10 they would call it, subsidies or stipend is
11 provided, and also with the general policy
12 of, if a family member died, again, in the
13 struggle, doesn't matter what group he was
14 from or what he did, just in general, they
15 would provide a very, very modest amount of
16 money to the family, so there's a general
17 policy out there. Is it specific to
18 individuals associated with this case? I
19 can't comment on that.

20 BY MR. YALOWITZ:

21 Q What about did you see any documents
22 relating to the rank of various PA security officials
23 who are now in Israeli jails?

24 A A few individuals I think here and there,
25 but I don't recall reading any document that was

Page 117

1 right?

2 MR. HILL: Objection. Misstates
3 the witness' testimony.

4 He can respond.

5 THE WITNESS: That is my
6 understanding.

7 BY MR. YALOWITZ:

8 Q All right, and by the way, is that a policy
9 also of the PLO?

10 A That -- it's a policy -- to my
11 understanding, it is a policy that has long been in
12 effect that essentially started with the PLO and has
13 been essentially taken over, subsumed by the PA, as
14 with a lot of things that the PLO used to do, the PA
15 does now. So it is essentially a PA, or these days I
16 believe there's a martyrs foundation that handles it,
17 but essentially it transferred from PLO to PA
18 activities, so there's a long line of, a long history
19 of it.

20 Q Is the same true -- my question was a little
21 vague. I think it was objected to but perhaps for the
22 wrong reasons.

23 When I asked you about that policy, I
24 was referring to, and I think you understood, the
25 policy of paying people who died in political

30 (Pages 114 to 117)

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1 crimes.

2 Is that the policy you were answering
3 the question about?

4 MR. HILL: Objection. Vague.

5 THE WITNESS: It is my
6 understanding -- shall I answer?

7 MR. HILL: You should answer. It's
8 not clear to me what the question is.

9 THE WITNESS: It's my understanding
10 people who die in the cause, you know, are
11 declared martyrs in the cause, their families
12 are entitled to a small amount of money, and
13 they get it -- they used to get it from the
14 PLO. Now they get it from the PA.

15 BY MR. YALOWITZ:

16 Q And similarly, people who are in jail for
17 committing political crimes, including acts of
18 terrorism, used to get money from the PLO and they now
19 get money from the PA; right?

20 A That is my understanding, yes.

21 Q Okay.

22 Let me ask you about --

23 A Can I add something to my answer?

24 Q Yes, of course.

25 A The money has to go through Israeli prisons,

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1 so the Israelis are clearly okay with it as well. The
2 stipends that go to Palestinian prisoners, they're
3 being held in Israeli prisons, so this is something
4 that is done in the open. It's not some secret and
5 has obvious cooperation on the Israeli side.

6 Q So we could certainly conclude from this
7 that the Israeli government is not interfering with
8 the property rights of the individual Palestinian
9 prisoners; right?

10 A To my knowledge, they have been generally
11 cooperative in allowing these stipends to be passed on
12 for whatever reason.

13 Q All right.

14 There's a comment on page 56 which I
15 want to ask you about.

16 A Mm-hmm.

17 Q And that's at the bottom of page 56. There
18 is a statement about your conclusion about
19 participation by PA personnel in attacks on Israeli
20 targets.

21 Do you see that?

22 A Mm-hmm.

23 Q Have we previously today discussed the
24 evidential basis for your conclusion in that regard?

25 A Yes. You have asked me if that one section

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1 represented -- and we're talking about the al-Aqsa
2 Martyrs' Brigades represented the totality, and I said
3 no. The degradation of the command and control of the
4 police and security forces, there are citations and
5 discussion of that peppered throughout the entire
6 report.

7 Q And also supporting this conclusion -- you
8 say "one must conclude." Is that a turn of phrase,
9 meaning it's your conclusion that?

10 A I think the evidence is pretty overwhelming
11 that this conclusion is accurate based on the evidence
12 that we have.

13 Q And so, and so you've described that
14 evidence to include the scholarly work that you've
15 cited; right?

16 A Mm-hmm.

17 Q You should say yes or no.

18 A Yes, yes.

19 Q Okay, and you've described it as your field
20 work, some of which has been written up in reports
21 that are unavailable to the public; right?

22 A And some that is available to the public,
23 yes.

24 Q And what other evidential basis do we have
25 that supports your conclusion in this regard?

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1 A Various primary and secondary documents as
2 well that are listed in the report.

3 Q All right, and then, and then I think it's
4 fair to say that in reaching this conclusion on page
5 56, you did not consider the trial record in any of
6 the 21 cases of criminal convictions that we've been
7 discussing; right?

8 A Correct.

9 Q And it's fair to say that you did not
10 consider the documents cited in the attack-by-attack
11 sections of the Shrenzel and Eviatar reports; correct?

12 A Incorrect. I read it, but -- so it's part
13 of the, you know, part of what I read in preparation
14 of this.

15 Q I'm sorry. I was referring to the
16 underlying documents cited.

17 A Oh, not the report itself? Then that would
18 be correct.

19 Q Okay.

20 By the way, did you read the, any of the
21 proceedings about the trial of Marwan Bargouti?

22 A While it was happening, I read press
23 accounts of it both from the Israeli, Palestinian and
24 international press. I did not read transcripts from
25 the trial.

31 (Pages 118 to 121)

<p style="text-align: right;">Page 122</p> <p>1 Q And you've never read transcripts from the</p> <p>2 trial?</p> <p>3 A From the Bargouti trials, no, I've never</p> <p>4 read those transcripts.</p> <p>5 Q Have you ever read Bargouti's testimony?</p> <p>6 A No, I have not read any of the documents</p> <p>7 that were produced from the trial.</p> <p>8 Q I see. Okay.</p> <p>9 MR. HILL: Can we go off the record</p> <p>10 for a second.</p> <p>11 (Discussion was held off the</p> <p>12 record.)</p> <p>13 BY MR. YALOWITZ:</p> <p>14 Q Now, let's mark the Human Rights Watch</p> <p>15 report.</p> <p>16 A Can I interrupt for just a moment?</p> <p>17 Q Of course.</p> <p>18 A I thought you were going to ask me if I</p> <p>19 talked to anybody about the case over lunch, because I</p> <p>20 did want to correct one misstatement. I told Brian as</p> <p>21 soon as we left, I think I said something that was</p> <p>22 wrong.</p> <p>23 Q Sure. Please feel free to correct it now.</p> <p>24 A You had asked me if I had read the</p> <p>25 underlying source material for a couple of reports,</p>	<p style="text-align: right;">Page 124</p> <p>1 (Robinson Exhibit 6 was marked for</p> <p>2 identification.)</p> <p>3 BY MR. YALOWITZ:</p> <p>4 Q And do you have Exhibit 6 before you?</p> <p>5 A Yes.</p> <p>6 Q This is a document you cite in your report;</p> <p>7 right?</p> <p>8 A Correct.</p> <p>9 Q Okay.</p> <p>10 Now, I'm going to, I'm going to make a</p> <p>11 series of declarative statements, and after each</p> <p>12 statement I want to know whether you agree with my</p> <p>13 statement or disagree, and if you disagree, we can</p> <p>14 look up the reference.</p> <p>15 Do you understand my methodology here?</p> <p>16 A I do.</p> <p>17 Q Okay.</p> <p>18 "In the aftermath of a Hamas and Islamic</p> <p>19 Jihad suicide bombing campaign in 1996/1997, the</p> <p>20 PA took credible and tangible steps to prevent</p> <p>21 attacks against Israeli targets."</p> <p>22 Do you agree with that statement?</p> <p>23 A I agree that they took steps.</p> <p>24 Q So let's look at pages 110 through 111 of</p> <p>25 Human Rights Watch.</p>
<p style="text-align: right;">Page 123</p> <p>1 and I said not that I recalled. That was an error. I</p> <p>2 did get a number of source documents particularly for</p> <p>3 Dr. Levitt's report in particular. I just wanted to</p> <p>4 correct the record there.</p> <p>5 Q I'm not sure that was -- anyway, that's a</p> <p>6 useful correction. Thank you.</p> <p>7 A And those documents are listed in my report,</p> <p>8 so nothing new.</p> <p>9 Q Excellent, and did you -- I asked you some</p> <p>10 questions also about underlying source material cited</p> <p>11 in Eviatar and Shrenzel's reports.</p> <p>12 Did you review any of those documents?</p> <p>13 A To the best of my knowledge, it was only</p> <p>14 Dr. Levitt's where I saw the underlying material.</p> <p>15 Q Thank you. That's very helpful. I</p> <p>16 appreciate it. At any time if you feel like you want</p> <p>17 to go back and correct something, I'm happy for you to</p> <p>18 do that.</p> <p>19 A Very good.</p> <p>20 Q I want to get your best answers as of today.</p> <p>21 Okay. Let's mark a document that's</p> <p>22 called "Erased in a Moment: Suicide Bombing</p> <p>23 Attacks Against Israeli Citizens," produced by</p> <p>24 Human Rights Watch.</p> <p>25</p>	<p style="text-align: right;">Page 125</p> <p>1 Do you see the paragraph beginning at</p> <p>2 the bottom of 110 and running over to the top of</p> <p>3 111?</p> <p>4 A Yes.</p> <p>5 Q Do you disagree with the statements in that</p> <p>6 paragraph in Human Rights Watch?</p> <p>7 MR. HILL: Objection. Compound</p> <p>8 question, but the witness can respond.</p> <p>9 THE WITNESS: I think this</p> <p>10 paragraph is an incomplete explanation for</p> <p>11 why those steps were relatively successful,</p> <p>12 but insofar as the statements in the</p> <p>13 paragraph, I see no reason to doubt them.</p> <p>14 BY MR. YALOWITZ:</p> <p>15 Q Thank you.</p> <p>16 Now, "after the 1996 and 1997 suicide</p> <p>17 bombings, the Palestinian Authority responded by</p> <p>18 detaining hundreds of Hamas and Islamic Jihad</p> <p>19 members and supporters, but they were not charged</p> <p>20 or brought to trial in connection with the</p> <p>21 bombings."</p> <p>22 Is that correct?</p> <p>23 MR. HILL: Objection. Compound.</p> <p>24 Lack of foundation.</p> <p>25 You can respond.</p>

<p style="text-align: right;">Page 126</p> <p>1 THE WITNESS: I'd have to review 2 the specific incidents, but I have no reason 3 to doubt that statement. 4 BY MR. YALOWITZ: 5 Q "Following the detentions, the bombings 6 ceased." 7 True? 8 A Again I'd have to look at the specifics of 9 the cases, but I don't doubt the statement. 10 Q "Many of the detainees, however, were 11 released from PA custody once the clashes between 12 Palestinians and Israelis resumed in September 2000." 13 Correct? 14 A I believe that is -- 15 MR. HILL: Objection. Lack of 16 foundation, but you can respond. 17 THE WITNESS: I believe that is a 18 correct statement. 19 BY MR. YALOWITZ: 20 Q "Coincidentally or not, the new round of 21 suicide bombings begin within a few months, again 22 under the auspices of Hamas and Islamic Jihad"; 23 correct? 24 MR. HILL: Object. Lack of 25 foundation. The witness can respond.</p>	<p style="text-align: right;">Page 128</p> <p>1 correct statement to suggest that Arafat 2 didn't start the violence but hoped to be 3 able to make use of it to the degree that he 4 could, and for, incidentally, for a 5 relatively short period of time. 6 BY MR. YALOWITZ: 7 Q And the -- "there is no question that 8 Arafat, to use former Israeli foreign minister Shlomo 9 Ben-Ami's phrase, rode the tiger of the Intifada, 10 trying to steer it as best he could to his 11 advantage." 12 A That sounds like something I wrote. 13 Q Do you still agree with it? 14 A I do. 15 Q "There's also no question that Fatah cadres 16 were mobilized in the first days of the uprising, 17 something that could not have happened without 18 Arafat's approval." 19 Correct? 20 A To my knowledge, they were told to take to 21 the streets. 22 Q "And it is likely that the PLO had made 23 contingency plans for renewed armed conflict, as had 24 Israel." 25 Correct?</p>
<p style="text-align: right;">Page 127</p> <p>1 THE WITNESS: That is correct. 2 BY MR. YALOWITZ: 3 Q "Some of the detainees released at the 4 beginning of the uprising, as well as other armed 5 militants and political critics of the PA, were 6 re-detained and re-released periodically during 2001." 7 MR. HILL: Objection. Compound. 8 Lack of foundation. 9 The witness can respond. 10 BY MR. YALOWITZ: 11 Q Correct? 12 A I hadn't heard the question. 13 To my knowledge, yes, that is a correct 14 statement. 15 Q Well, let me ask you the question -- this is 16 not from Human Rights Watch. This is from a different 17 document, but I'll ask you the question and you can 18 tell me if you agree or disagree. 19 "Arafat hoped to control the violence 20 and use it to his political advantage." 21 Correct? 22 MR. HILL: Objection. Lack of 23 foundation. Vague. 24 The witness can respond. 25 THE WITNESS: I think it is a</p>	<p style="text-align: right;">Page 129</p> <p>1 A As I sit here today, I see no evidence -- 2 looking back, and having gone through the record 3 fairly carefully recently in preparation for this 4 report, I have found no evidence of any sort of 5 preplanning on the Palestinian side. 6 Q So let me just say the statement and -- I 7 understand -- what you're getting at is there's a 8 historical debate on did Arafat plan it or did he ride 9 the tiger, as you say, right? 10 A That's not the debate, no. 11 Q All right. Let me just read the statement 12 again and ask if you agree with it or disagree with 13 it. 14 The statement is: "It is likely that 15 the PLO had made contingency plans for renewed 16 armed conflict, as had Israel." 17 MR. HILL: What's the question? 18 BY MR. YALOWITZ: 19 Q The question is: Do you agree with that 20 statement? 21 A And my answer is, as I sit here today, I am 22 aware of no evidence of preplanning by the PLO or by 23 Arafat, and the debate to which you referred was 24 not -- I mean there was no serious debate that Arafat 25 planned the Second Intifada. The debate is to what</p>

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1 degree he tried to stop it and when, and to what
2 degree he basically rode it out for whatever political
3 advantage he could get for some period of time.

4 Q Just a clarification. You said "whether he
5 tried to stop it and when," W-H-E-N, not W-I-N; right?

6 A Correct.

7 Q I just want to make sure we got the
8 testimony accurate.

9 "The PA's failure to take effective
10 steps to prevent suicide attacks against civilians
11 and bring those responsible to justice dates from
12 the earliest months of the current unrest." This
13 is Human Rights Watch.

14 Do you agree with that statement or
15 disagree with it?

16 MR. HILL: Objection. Lack of
17 foundation.

18 The witness can respond.

19 THE WITNESS: I neither agree nor
20 disagree with it. I think it was a
21 complicated situation, and the criticism that
22 I raised earlier of the Human Rights Watch
23 is -- of this report, that is, because it's a
24 fine organization, and Joe Stork, the main
25 author, is a credible source. I think it's a

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1 MR. HILL: Objection.

2 Mischaracterizes the statement. Lack of
3 foundation.

4 The witness can respond.

5 THE WITNESS: My response is that
6 there is an element of truth to that but
7 that it needs to be put into its proper
8 context.

9 I mean just logically the fact that
10 suicide bombings occur, one could logically infer
11 that not enough was done to stop them, but now we
12 get into the issues of the capacity, the ability
13 to be able to stop them, the political situation;
14 in other words, what would be the political price
15 the PA would pay in terms of its own citizenry if
16 it's seen as little more than the lap dog for
17 Israeli security forces.

18 So there's a broader context in
19 which -- I mean that statement has elements of
20 truth, but there's a broader context that I think
21 it needs to be put into.

22 BY MR. YALOWITZ:

23 Q By the way, the prior statement that we were
24 talking about with regard to PLO contingency planning,
25 that was your statement that you made in 2003; right?

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1 bit naive, and taken out of context, the
2 capacity and the political dynamics both in
3 terms of trying to prevent suicide attacks
4 and to prosecute after the fact, those would
5 be my grounds for criticizing this report.

6 Its large central piece which is having
7 to do with the relations between various groups
8 and description of the various groups I find to
9 be generally accurate.

10 BY MR. YALOWITZ:

11 Q Well, leaving aside the political
12 environment, the Human Rights Watch report statement
13 that I read was a statement of fact.

14 Do you disagree with the facts that were
15 being reported? Do you want me to read it again?

16 A Please.

17 Q Sure.

18 "The PA's failure to take effective
19 steps to prevent suicide attacks against civilians
20 and bring those responsible to justice dates from
21 the earliest months of the current unrest."

22 MR. HILL: Wait for the question.

23 What's the question?

24 BY MR. YALOWITZ:

25 Q Do you agree with that statement of fact?

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1 A It sounds familiar, yes.

2 Q And that was in an article you wrote called
3 "Being Yasir Arafat"?

4 A I believe that is the Foreign Affairs
5 article.

6 Q Did you review your prior writings in
7 anticipation of today's meeting?

8 A Not all of them, no.

9 Q Did you review "Being Yasir Arafat"?

10 A No, I did not.

11 Q Do you think that your statement in 2003 was
12 incorrect? Is that what you're saying?

13 A Yes.

14 Q Okay, because you know more now than you
15 knew then?

16 A Yes, benefit of hindsight. We have more
17 data, more material, a lot more has come out since
18 then, so we can make better informed judgments about
19 the earlier events.

20 Q Let me read you another statement and see if
21 you agree or disagree.

22 "In November 2000, Ahmed Abdal-Rahman
23 said that the PA and its Islamist opposition were
24 'fighting in the same trench.'"

25 Do you agree that that happened?

34 (Pages 130 to 133)

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1 MR. HILL: Objection. Lack of
2 foundation.

3 You can respond.

4 THE WITNESS: What happened
5 periodically is in -- and you saw this
6 particularly with the PRC, the popular
7 resistance committees in Gaza that were not
8 of any one political stripe, but you could
9 have people that self-identified with Gaza,
10 along with people who self-identified with
11 Hamas, along with people who self-identified
12 with some other group, and who are neighbors
13 and have known each other since growing up,
14 working together on some, some action, some
15 attack, some defense as they would probably
16 call it.

17 So in that regard there is, there is
18 evidence of a grassroots cooperation here and
19 again between individuals. It would not be a
20 correct statement by Mr. Abdal-Rahman. In terms
21 of organizational cooperation during the Second
22 Intifada between Hamas and any group in the PLO
23 other than the PFLP would be a false statement in
24 my judgment.
25

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1 just ask a narrower question.

2 Do you believe that his statement was
3 accurately reported by Human Rights Watch?

4 MR. HILL: Objection. Lack of
5 foundation. He can respond if he knows.

6 THE WITNESS: I have no idea.

7 BY MR. YALOWITZ:

8 Q Do you have any reason to doubt the --

9 A Joe Stork is a good investigator, so I
10 assume it was correctly said to him, but I wasn't
11 there. I don't know.

12 Q Do you remember there was a bombing of a
13 discotheque called the Dolphinarium in June of 2001?

14 A Yes, I do.

15 Q And do you remember that after that bombing,
16 Arafat for the first time called for a cease-fire?

17 A I recall that he called for a cease-fire. I
18 do not recall that June of 2001 was the first time it
19 was called for. This was the time of the tenet plan
20 that was calling for the cease-fire, so certainly one
21 was called at that point. Whether it was the first
22 one, I hesitate to agree with that.

23 Q Let me help you out. Let's look at page 25
24 of the Human Rights Watch report.

25 Do you have page 25 before you?

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1 BY MR. YALOWITZ:

2 Q Who was Abdal-Rahman?

3 A Abdal-Rahman, if I remember correctly, if
4 I'm thinking of the same guy, I think he was a PLO
5 representative to the UN and had other official
6 positions in the UN, if I'm remembering the same guy.

7 Q Cabinet secretary of the PA?

8 A Yeah, sounds right.

9 Q Arafat advisor?

10 A I believe so.

11 Q If Human Rights Watch reported a quote from
12 Mr. Abdal-Rahman, do you believe that the quote is
13 accurate?

14 A I believe Mr. Abdal-Rahman as a political
15 figure has political reasons for saying things, and in
16 this case it would -- clearly he doesn't want to paint
17 a picture that Mr. Arafat and the PA are simply the
18 leaders of Fatah, for example, but, in fact, is the
19 president of all Palestinians.

20 So there's a political motivation to making
21 public statements like that, not to underline the
22 fragmentation of Palestinian political society,
23 but the fragmentation is the reality on the ground.

24 Q That's helpful, and I appreciate
25 understanding your views with that regard. Let me

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1 A Yes, I do.

2 Q Look with me on the very last sentence in
3 the text of page 25. And just to give you some
4 orientation, you see they're talking about the
5 Dolphinarium attack?

6 A Right.

7 Q And then on the very last sentence of the
8 page, they write, "For the first time since clashes
9 erupted and under intense international pressure,
10 Arafat publicly called for an immediate and
11 unconditional cease-fire."

12 Do you see that?

13 A Yes, I do.

14 Q Does that refresh your recollection that
15 that was the first time since September of 2000 that
16 Arafat called for a cease-fire?

17 MR. HILL: Objection. Lack of
18 foundation.

19 The witness can respond.

20 THE WITNESS: I actually don't
21 think that's true. I can't cite you chapter
22 and verse right now, but I believe there were
23 earlier calls for a cease-fire, that this was
24 perhaps the most public one, but I'd want to
25 check the record before I said that, yes,

35 (Pages 134 to 137)

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1 this was the first time he had said so.

2 BY MR. YALOWITZ:

3 Q What would you check?

4 A I'd go back and check -- a good place to
5 start is to check newspaper accounts, you know, do
6 the, do a search on public pronouncements cease-fire.
7 I mean you could do those sorts of word searches in
8 various news sources, or have the librarian back at
9 MPS look for me. That's always good to do.

10 Q Well, when we're together next in New York,
11 I'm going to ask you about this, so you might want to
12 check up on it.

13 A Very good.

14 Q Now, "following the Dolphinarium bombing,
15 notwithstanding the call for a cease-fire, PA security
16 officials made clear that they had no plans to arrest
17 any of the large number of militants wanted by Israel,
18 some of whom were allegedly responsible for attacks on
19 civilians."

20 Is that correct?

21 MR. HILL: Objection. Lack of
22 foundation.

23 THE WITNESS: I can't speak for the
24 PA, so I don't know what their plans were or
25 were not.

1 clear that they had no plans to arrest any of the
2 large number of militants wanted by Israel, some of
3 whom were allegedly responsible for attacks on
4 civilians."

5 Right?

6 A Correct.

7 Q He says that; right?

8 A He says that, yes.

9 Q Do you disagree with that?

10 A I would want to put it in a bigger context,
11 but no, I don't disagree that he said that. I don't
12 disagree that that happened, but I also would want to
13 put it in a larger context to understand why that
14 would happen.

15 Q Look with me at the very last sentence on
16 page 117.

17 Do you see that?

18 A "Even when arrests were"?

19 Q Just before that, the last full sentence,
20 fair enough, where they're quoting --

21 A Right.

22 Q Mr. Stork is quoting Jibril Rajub; right?

23 A Right.

24 Q That's the same Jibril Rajub you were
25 talking about; right?

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Page 141

1 BY MR. YALOWITZ:

2 Q So let me help you out. Let's look at page
3 117.

4 A 117.

5 Q Do you have it before you?

6 A I do.

7 Q Looking at the paragraph that begins "Those
8 measures taken by the PA to limit armed activities
9 failed to include meaningful efforts to bring
10 perpetrators of suicide attacks on civilians to
11 justice."

12 Do you have that paragraph before you?

13 A Yes.

14 Q And then you see that, that -- what did you
15 say the name of the author was? Mr. Stark?

16 A Stork.

17 Q Mr. Stork is referring to the Dolphinarium
18 attack there on page 117; right?

19 A Yes.

20 Q And then he says, "Palestinian security
21 officials at the same time said they had boosted their
22 patrols."

23 Do you see that?

24 A Yes.

25 Q And then he adds, "However, they also made

1 A Yes.

2 Q It's spelled a little differently, but
3 that's just a transliteration issue; right?

4 A Correct.

5 Q Mr. Rajub said, "We will not arrest any
6 Palestinian who participated in the resistance prior
7 to the cease-fire"; right?

8 A That's what it says, yes.

9 Q Do you believe that is a correct quote of
10 Mr. Rajub?

11 A I have no reason to doubt it. I wasn't
12 there to hear it, but it doesn't sound wrong.

13 Q All right.

14 Now, "in June of 2001, Israeli officials
15 gave to Palestinian Authority officials a list of
16 people that the Israelis said were responsible for
17 attacks against civilians and military targets,
18 including, according to some reports, as many as
19 100 who had been released from PA detention."

20 Do you recall that happening?

21 MR. HILL: Objection. Lack of
22 foundation.

23 THE WITNESS: I recall the general
24 issue, yes.
25

36 (Pages 138 to 141)

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1 BY MR. YALOWITZ:

2 Q Tell me what you recall about the, the list.

3 A I recall that the Palestinians complained
4 loudly to, to the Americans and others that -- names
5 on a list were some people that there was absolutely
6 no evidence that they had done wrong, so there was no
7 grounds, no legal grounds to hold them, and I would
8 also add the political context. So as I said, you
9 need to understand the larger context, and that is,
10 first of all, a lot of the police and security
11 facilities where you would hold somebody had been
12 destroyed in part or in whole. So that was part of
13 the context.

14 The other is the thing that could discredit
15 the PA faster than anything else was to be seen as
16 essentially a lap dog of the Israelis, to be the
17 handmaiden of continued occupation, so this fits into
18 that picture perfectly.

19 Here the Israelis are handing the PA a list
20 of people saying go arrest these folks, and if the PA
21 then turned around and, you know, saluted, yes, sir,
22 and went and arrested them, they would basically lose
23 all legitimacy among Palestinians, who are,
24 incidentally, at the time fighting and dying and not
25 having much sympathy for Israeli requests.

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1 So the PA did not see itself as simply
2 implementing Israel's orders, and when Israel orders
3 the PA to go arrest people, sometimes the PA claimed,
4 without any foundation, the PA is not going to do
5 that, and that was very clear by their actions.

6 Q Are you saying that PA officials made a
7 political calculation that it would be imprudent to
8 arrest the individuals on the list because it could
9 jeopardize the PA's political standing in Palestinian
10 society?

11 A I'm saying there are a number of issues
12 going on. Some of it is judicial; in other words the
13 lack of evidence against people. At least that's what
14 the PA claimed in this regard, but I'm also
15 suggesting, yes, that there is a political element
16 where the PA -- you know, again, people are dying
17 here. This is not just a peaceful situation.

18 And so in the midst of armed clashes where
19 Palestinians are dying at a rate five times greater
20 than Israelis are dying, for the PA then to
21 essentially just be seen as the police force for the
22 occupation would delegitimize it further in the eyes
23 of Palestinian society.

24 It was already fighting this problem, I mean
25 the legitimacy of the PA in the eyes of Palestinian

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1 society, given the lack of progress, given that there
2 was no state, there was no forward progress for any
3 sort of independence, given the occupation was
4 continuing, the PA was already seen, even then, as it
5 is today by large numbers of Palestinians, as, you
6 know, at best ineffectual, and at worst, if they're
7 just going to go arrest anybody the Israelis tell them
8 to would completely undermine them in their political
9 position.

10 Q So Professor Robinson, I appreciate your
11 answers. I want you to be able to give whatever
12 length of answers you wish. I will not interrupt you,
13 because I want to hear what you have to say, but I
14 want Laurie, our court reporter, to read back the
15 question, and I want to see if, if you can give me a
16 yes-or-no answer to the question. If you can't,
17 that's okay. You can just tell me I can't give a yes
18 or no.

19 (Whereupon, reporter reads
20 requested material.)

21 BY MR. YALOWITZ:

22 Q Can you answer the question yes or no?

23 A I believe I did answer that question in the
24 proper context.

25 Q So can you answer the question yes or no?

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1 A If the question -- no, I cannot answer the
2 question yes or no, because it needs -- it's a more
3 complicated question than a yes-or-no answer can
4 provide.

5 Q You mentioned -- you alluded to an issue
6 about evidence, like they didn't have enough evidence
7 to hold these people or something like that?

8 A That was one of the things that the PA
9 complained about.

10 Q Now, didn't I read in your book that the PA
11 was criticized for human rights abuses and having
12 security courts that rode roughshod over the human
13 rights of people accused of security crimes?

14 A Yes, particularly Hamas militants.

15 Q So did they suddenly wake up and get
16 religion on human rights in 2000?

17 MR. HILL: Objection.

18 Argumentative. Lack of foundation.

19 The witness can respond.

20 THE WITNESS: They were in the
21 midst of a bloody conflict with Israel at the
22 time. That was not the case in 1995 or 1996.
23 So the situation changed pretty dramatically.

24 BY MR. YALOWITZ:

25 Q So now they had a great regard for human

37 (Pages 142 to 145)

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1 rights during the 2000/2001 period?

2 MR. HILL: Objection.

3 Argumentative.

4 What's the question?

5 BY MR. YALOWITZ:

6 Q Is that your testimony?

7 MR. HILL: Same objections. The
8 witness can respond.

9 THE WITNESS: My testimony is that
10 the United States of America is a country
11 based on the rule of law. Did we suddenly
12 forget that at Abu Ghraib and elsewhere in
13 Iraq? You know, in the midst of conflict,
14 things happen, so the situation changed.

15 There was no -- if you want my opinion
16 on it, there was no really legitimate reason in
17 1995 to have state security courts and to give
18 short shrift to human rights within internal
19 Palestinian context.

20 You have a very different situation,
21 beginning the fall of 2000, where you now have an
22 armed conflict, one in which, for example, in the
23 first few weeks of the conflict, Israel was
24 shooting off nearly 100,000 rounds of bullets
25 every single day, so enough bullets to wipe out

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1 situation goes from peace time to wartime. It's not
2 more or less. It's a different set of circumstances
3 with a different calculation.

4 Q So were they more protective of human rights
5 in 2001 or less protective of human rights in 2001 as
6 compared to the '96/'97 time frame?

7 MR. HILL: Objection. Compound.
8 Argumentative.

9 The witness can respond again.

10 THE WITNESS: It's, it's a question
11 that is -- I mean I can't answer it, let me
12 just put it that way, in the sense that I
13 can't read the hearts and minds of
14 decision-makers.

15 What I can read is the context on the
16 ground and how that has shifted, and therefore
17 political and other calculations would shift
18 along with it, and the last thing the PA wanted
19 while Israeli forces were killing many, many
20 Palestinians as they did particularly early on in
21 Intifada, the last thing that the PA could afford
22 politically and the last thing it probably wanted
23 to do was to be seen just as doing -- being the
24 police force for the Israeli occupation
25 authorities.

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1 the West Bank population in two and a half weeks.

2 This is a very different context than
3 peace time. So yes, calculations change during
4 periods of conflict.

5 BY MR. YALOWITZ:

6 Q Are you saying that the PA was more
7 solicitous of human rights during the conflict or less
8 solicitous of human rights during the conflict?

9 MR. HILL: Objection. Compound.

10 The witness can respond.

11 THE WITNESS: I am saying that
12 their response to Israeli concerns while
13 Israeli forces are shooting at them would be
14 a bit different than their response to
15 Israeli concerns in peace time.

16 BY MR. YALOWITZ:

17 Q I'm going to try the question again, and,
18 you know, I understand your testimony and I appreciate
19 your answers.

20 My question is a very specific one,
21 which is: Is it your testimony that the PA's
22 concern for human rights increased during the
23 course of the Intifada?

24 A My answer is that the calculation by the PA,
25 like any government in the world, will change when the

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1 BY MR. YALOWITZ:

2 Q Were you aware that the Israelis asked the
3 PA to arrest Abdallah Bargouti after the bombing of a
4 Sbarro restaurant in Jerusalem in August of 2001?

5 MR. HILL: Objection. Lack of
6 foundation.

7 The witness can respond.

8 THE WITNESS: I have read that.

9 BY MR. YALOWITZ:

10 Q And are you aware that the PA did arrest
11 Abdallah Bargouti at that time?

12 MR. HILL: Same objection.

13 THE WITNESS: And same answer. I
14 have read that.

15 BY MR. YALOWITZ:

16 Q And you have no reason to doubt that that
17 happened; right?

18 A I have no reason to doubt that that
19 happened.

20 Q And then you're aware, I take it, that
21 Bargouti was released later in August of 2001?

22 MR. HILL: Objection. Lack of
23 foundation.

24 THE WITNESS: Same answer. I have
25 read that.

38 (Pages 146 to 149)

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1 BY MR. YALOWITZ:

2 Q And are you aware that Bargouti was then
3 rearrested and re-released later, either later that
4 year or early in 2002?

5 MR. HILL: Objection. Lack of
6 foundation.

7 THE WITNESS: And again, I have
8 read that. No reason to doubt it.

9 BY MR. YALOWITZ:

10 Q All right, and do you know what Abdallah
11 Bargouti's role was with regard to any of the, any of
12 the bombings that are the subject of our case?

13 MR. HILL: Objection. Lack of
14 foundation.

15 THE WITNESS: I have read in the
16 material provided here and perhaps even in
17 outside material earlier that Abdallah
18 Bargouti was a maker of bombs, and so he
19 constructed, was alleged to have constructed
20 the bomb that went off in the Sbarro
21 restaurant in Jerusalem.

22 BY MR. YALOWITZ:

23 Q Well, it wasn't just alleged. He was
24 actually convicted of that; right?

25 MR. HILL: Objection. Lack of

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1 statement of the facts?

2 MR. HILL: Objection. Lack of
3 foundation.

4 The witness can respond.

5 THE WITNESS: I think it is
6 inaccurate in that, as you read it, it
7 implied that the cease-fire broke down
8 because of the PA or PLO's unwillingness to
9 further crack down on various militant
10 groups. That particular cease-fire broke
11 down because Israel assassinated Ra'id Karmi.

12 BY MR. YALOWITZ:

13 Q Karmi was an al-Aqsa Martyrs' Brigades
14 leader; right?

15 MR. HILL: Objection. Lack of
16 foundation.

17 THE WITNESS: It is widely thought
18 that, yes, he was one of the brigade's -- a
19 local leader in the northern part of the West
20 Bank. Tulkarem, I believe.

21 BY MR. YALOWITZ:

22 Q The Human Rights Watch report says, and I'll
23 quote, "The strongest evidence that the PA still
24 retained some law enforcement capacity with regard to
25 attacks against civilians came in December 2001 and

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1 foundation.

2 THE WITNESS: I believe that's
3 correct, if I recall correctly.

4 BY MR. YALOWITZ:

5 Q Now, you're aware that there was a one-month
6 cease-fire from December 16, 2001, to January 17,
7 2002; right?

8 A Yes.

9 Q And I'm going to read a statement from Human
10 Rights Watch. You tell me if you agree with it or
11 disagree with it.

12 "The relative success of the PA's
13 intervention with armed groups and their sponsors
14 in the December 2001/January 2002 period
15 highlights the PA's lack of a similar concerted
16 effort at other times. This failure to take
17 consistent and credible steps to confront these
18 attacks contributed to a climate of impunity and
19 set the scene for the escalation of such attacks
20 between late January and early April 2002."

21 Would you like to see that in the
22 context of the Human Rights Watch report, or do
23 you recall it?

24 A I recall it in general terms, yes.

25 Q And do you believe it's an accurate

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1 January 2002 when in contrast to previous periods, the
2 PA undertook sustained efforts to halt suicide
3 bombings."

4 That's page 119 from Mr. Stork's report.
5 Do you disagree with him?

6 MR. HILL: Objection. Lack of
7 foundation.

8 THE WITNESS: I do not disagree
9 with him, although I would clarify the -- it
10 is implied in what you read that it was the
11 coercive abilities of the PA that brought
12 about relative peace and quiet. I would
13 suggest that it was much more of a political
14 and monetary incentive that brought about
15 some level of peace and quiet. A combination
16 of factors, in other words.

17 BY MR. YALOWITZ:

18 Q Mr. Stork wrote in the Human Rights Watch
19 report with regard to the cease-fire, "It was Fatah
20 people like Marwan Bargouti who made it happen."

21 Do you agree with his assessment?

22 A Marwan Bargouti was an important and
23 well-respected leader in the West Bank, so he carried
24 influence. His exact actions in this particular
25 cease-fire I don't know, but it would not surprise me

39 (Pages 150 to 153)

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1 at all. And this is -- I mean like I mentioned, the
2 financial incentives, it's important to remember this
3 was a very common way for Arafat to try and get people
4 to go along, and particularly during cease-fires when
5 a lot of monetary payments were made essentially
6 trying to bribe militants to cease and desist for a
7 while.

8 The US did the same thing with Iraq, done
9 the same thing in Afghanistan. It's the same thing we
10 were talking earlier about prisoners in Israel and the
11 stipends the Palestinian prisoners would get that the
12 Israelis would allow.

13 You say, well, why would the Israelis allow
14 monies to go to a people who were convicted of violent
15 crimes. Well, they essentially, at least in good
16 times, want the PA to succeed. They want happy folks
17 that will come out of prison and be somewhat loyal to
18 the PA, and so to the degree that money can bribe
19 people not to undertake militant activity, that was
20 one, not the only one, but it was a common strategy or
21 common ploy that Arafat utilized.

22 MR. YALOWITZ: I'm sorry. Laurie,
23 could I just have the first sentence or two
24 back of that answer.
25

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1 cease-fire happen?

2 MR. HILL: Let me just object to
3 the foundation. I don't think you've
4 accurately represented what the document
5 says, but the witness can respond. I think
6 you've misstated what the document says.

7 MR. YALOWITZ: Are you objecting to
8 form?

9 MR. HILL: I'm objecting to form
10 and lack of foundation and that it misstates
11 the document.

12 MR. YALOWITZ: Please limit your
13 objection to form instead of coaching the
14 witness.

15 MR. HILL: I'm not coaching the
16 witness. I'm entitled to state the basis for
17 the objection.

18 BY MR. YALOWITZ:

19 Q Do you disagree with Mr. Stork's conclusions
20 that he's writing here on page 123 that it was Fatah
21 people like Marwan Bargouti who made the cease-fire
22 happen?

23 MR. HILL: Objection. Misstates
24 the document. Lack of foundation.
25

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1 (Whereupon, reporter reads
2 requested material.)

3 BY MR. YALOWITZ:

4 Q Thank you.

5 Will you look with me on page 123 of
6 Mr. Stork's report for Human Rights Watch?

7 A Mm-hmm.

8 Q Stork is reporting in the carryover
9 paragraph about the cease-fire.

10 Do you see that?

11 A Being with controlled areas, culminating
12 assassination of Karmi?

13 Q Yes.

14 A Mm-hmm.

15 Q You have to say --

16 A Yes.

17 Q All right.

18 Now, you see Stork's conclusion? "It
19 was Fatah people like Marwan Bargouti who made it
20 happen."

21 Do you see that?

22 A I do.

23 Q And I just want to make sure I've got it
24 right. You're not disagreeing with Stork that it was
25 Fatah people like Marwan Bargouti who made the

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1 BY MR. YALOWITZ:

2 Q You can answer.

3 A I think it is a fair statement to say that
4 Fatah had an interest in persuading, cajoling, bribing
5 folks to abide by the cease-fire. Fatah was not
6 without influence.

7 Q Now, the assassination of Karmi led
8 al-Aqsa Martyr Brigades to start bombing in 2002;
9 right?

10 MR. HILL: Objection. Lack of
11 foundation.

12 THE WITNESS: Yes is my
13 understanding.

14 BY MR. YALOWITZ:

15 Q And the first one was the Wafa Idris
16 bombing; right?

17 MR. HILL: Objection. Lack of
18 foundation.

19 THE WITNESS: I believe that is
20 correct.

21 BY MR. YALOWITZ:

22 Q That was January 27, 2002?

23 MR. HILL: Objection. Lack of
24 foundation.

25 The witness may respond if he knows.

40 (Pages 154 to 157)

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1 THE WITNESS: I'll take your word
 2 for the date.
 3 BY MR. YALOWITZ:
 4 Q Sounds about right?
 5 A Sounds about right.
 6 Q Let's look together at page 29 of
 7 Mr. Stork's report.
 8 A 29?
 9 Q Yes.
 10 Do you see the paragraph beginning
 11 "January 27, 2002"?
 12 A Correct. Yes, I do.
 13 Q Does that refresh your recollection that
 14 this was the date of the Wafa Idris suicide bombing?
 15 A Yes.
 16 Q And does it refresh your recollection that
 17 this was the first suicide bombing attack claimed by
 18 the al-Aqsa Martyr Brigades?
 19 A That's what it says here on page 29, yes.
 20 Q And do you agree that that's correct?
 21 MR. HILL: Objection. Lack of
 22 foundation.
 23 The witness can respond.
 24 THE WITNESS: I would have to look
 25 back on the record, but I have no reason to

1 of actions by these various groups that called
 2 themselves al-Aqsa Martyrs' Brigades, and at that
 3 level I think this is a fair statement. In other
 4 words, at the street level in these groups of guys
 5 that would call themselves various things, there was a
 6 fear -- and there's a book that was written that talks
 7 about this as well. There was essentially a fear of
 8 losing out to the Islamists. They were getting all
 9 the action.
 10 That does not accurately reflect what was
 11 going on at the leadership level of Fatah in the
 12 center, so for this sentence to be accurate, it would
 13 have to disaggregate what Fatah actually was at that
 14 point in time.
 15 Q Could you please read aloud the next
 16 sentence after the one that I just read?
 17 A The one in quotes?
 18 Q Yes.
 19 A Quote, "'When the al-Aqsa Brigades started
 20 suicide bombing operations, it was the decision of all
 21 districts,' one Fatah leader in the Jenin refugee camp
 22 told Human Rights Watch."
 23 Q Do you have any evidential basis to question
 24 that statement?
 25 A Yes. What would one guy in the Jenin

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1 doubt that that is a correct statement.
 2 BY MR. YALOWITZ:
 3 Q And then Mr. Stork goes on to say that --
 4 and I'll quote. He says, "Though hardly a
 5 justification, the al-Aqsa Brigade's adoption of
 6 suicide bombing tactics and attacks against civilians
 7 inside Israel reflected at least in part a growing
 8 fear by Fatah that it was losing political ground to
 9 the Islamic groups that had been carrying out such
 10 attacks, especially Hamas."
 11 That's consistent with your views;
 12 right?
 13 A No, it is not.
 14 Q You think that -- well, tell me, tell me in
 15 what ways you disagree with Mr. Stork's statement.
 16 A I disagree with the lack of disaggregation
 17 of Fatah here, because when you're talking about
 18 al-Aqsa Martyrs' Brigades as the plural, and it's
 19 plural in the Arabic as well, you're talking about
 20 far-flung groups of individuals making their own
 21 decisions. As Anne Marie Baylouny's article pointed
 22 out, a lot of the intermediate commanders that linked
 23 the folks at the center with those at the periphery
 24 had already been assassinated.
 25 So you basically have essentially autonomy

1 refugee camp know about some order that has never been
 2 produced, incidentally, that to my knowledge went out
 3 to, to all parts of West Bank/Gaza?
 4 Q Anything else?
 5 A Leading me to doubt? There's no name here.
 6 I have no idea who it is. This sentence is
 7 inconsistent with lots of other evidence.
 8 Q Please just summarize the sources of the
 9 evidence that you believe that this sentence is
 10 inconsistent with.
 11 A All of the data, including the data here in
 12 Human Rights Watch reports, suggest that the al-Aqsa
 13 Martyrs' Brigade was not taking orders from Fatah.
 14 They self-identified as being in that stream, but
 15 there was no organizational command and control, and
 16 again, Joe Stork makes that very clear here.
 17 Other sources cited in my report also show
 18 that to be quite clear, that it is not a situation,
 19 which I think you're trying to paint, of Fatah making
 20 an order, sending it out to all these various
 21 brigades, and they implement it. That's not the
 22 reality, and that's not the reality shown in all kinds
 23 of sources, including the one you're quoting from.
 24 Q Do you recall that there was a -- well, let
 25 me ask you before I go there.

41 (Pages 158 to 161)

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1 Other than the sources cited in your
2 report and the classified report that you
3 mentioned earlier, are there other sources that
4 you have in mind that deal with the command and
5 control of al-Aqsa Martyr Brigades?

6 MR. HILL: Objection. Lack of
7 foundation. Mischaracterizes the witness's
8 testimony.

9 He can respond.

10 THE WITNESS: I'm unaware of a
11 classified report that I had mentioned. To
12 my knowledge, there are a number of studies
13 that have been done on this. I quote from a
14 number of them, and frankly, every single one
15 of them, to my knowledge, every single
16 academic one, scholarly treatment of this,
17 has reached the same conclusion about a
18 disaggregated autonomous local-level groups,
19 again from the nationalist mainstream,
20 calling themselves al-Aqsa Martyrs' Brigades,
21 but without any kind of command and control
22 from Fatah itself.

23 Even the US government has concluded
24 exactly that same thing, and I've quoted their
25 2007 report describing the relationship between

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1 BY MR. YALOWITZ:

2 Q Well, you just disagreed with a statement in
3 the Human Rights Watch report, for example. You
4 didn't put that in your report that you prepared back
5 over the summer. That's an opinion that you're
6 expressing now; right? I asked you a question about
7 it, and you're expressing an opinion about it.

8 A I did not --

9 MR. HILL: What's the question?

10 BY MR. YALOWITZ:

11 Q Go ahead.

12 MR. HILL: Well, no. There should
13 be a question pending, and I don't know what
14 it is.

15 BY MR. YALOWITZ:

16 Q Please continue what you were about to say.

17 A I did not put in my report that I disagreed
18 with the opinion of an anonymous Jenin refugee camp
19 individual, that's correct.

20 Q Right. So then you expressed some opinions
21 about it; right?

22 MR. HILL: Objection. Vague.

23 THE WITNESS: I'm still not sure I
24 understand the question. I expressed
25 opinions about --

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1 al-Aqsa Martyrs' Brigades and Fatah and
2 concluding the exact same thing that I've already
3 told you. No command and control.

4 BY MR. YALOWITZ:

5 Q Let me just ask you -- bear with me. I have
6 to make a note.

7 Let me just ask you, because I'm not
8 sure it's clear from my question. My question
9 is -- I don't want to debate this point with you.
10 My question is: Have you described in our meeting
11 today all of the sources for your conclusion that
12 you just expressed, or are there other sources for
13 your conclusion that we haven't discussed?

14 A All the pertinent sources that went into the
15 conclusions reached in my report are listed in the
16 report. Are there other sources out there that exist?
17 No doubt, but the pertinent ones that I used to form
18 my conclusion are listed in the report.

19 Q And does that include not only your report
20 but the opinions you're expressing in our meeting here
21 today?

22 MR. HILL: Objection. Vague.

23 THE WITNESS: I don't understand
24 the question.
25

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1 BY MR. YALOWITZ:

2 Q In our conversation a few moments ago you
3 expressed opinions about page 29 of the Human Rights
4 Watch report; right?

5 A My opinion that I expressed was that this
6 anonymous individual from the Jenin refugee camp did
7 not accurately reflect the reality of the relationship
8 between al-Aqsa Brigades and any sort of centralized
9 command or control, whether it's from Fatah or anybody
10 else for that matter.

11 Q Now, my question is: Have we discussed the
12 evidential basis for that opinion earlier today?

13 A Yes.

14 Q Okay. That's all I was trying to find out.

15 Now, you, you mentioned State Department
16 reports; right?

17 A I did.

18 Q The State Department puts out an annual
19 report; right?

20 A Correct.

21 Q And, and you would agree with me that the
22 facts on the ground change from year to year; right?

23 A Presumably, yes.

24 Q And that's one of the reasons why the State
25 Department puts out a report every year; right?

42 (Pages 162 to 165)

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1 A Presumably, yes.

2 Q All right.

3 Did you review the State Department
4 reports from 2001, 2002, 2003 and 2004?

5 A I reviewed -- I couldn't tell you the exact
6 years. I think the answer will be yes. I reviewed a
7 number of those reports from during and -- really
8 through 2007, and including the ones during the
9 al-Aqsa Intifada. Was it every single one? I
10 couldn't tell you for sure, but certainly many of
11 them.

12 Q All right.

13 You have no reason to doubt that you
14 looked at the '01, '02, '03 and '04 State
15 Department reports on, country reports on
16 terrorism; right?

17 A I believe I did look at them, yes.

18 Q All right.

19 Now, in March of 2002 a hotel in Netanya
20 was bombed during a Passover.

21 Do you recall that?

22 MR. HILL: Objection. Lack of
23 foundation.

24 THE WITNESS: I do recall it.
25

1 suicide bombing at the Netanya Hotel; right?

2 A Correct.

3 Q And he says in the middle of the page,
4 "Palestinian sources confirmed that the PA had earlier
5 detained Awdah at the request of Israel, but only
6 briefly."

7 MR. HILL: What's the question?

8 BY MR. YALOWITZ:

9 Q Do you see that?

10 A I see that.

11 Q Does that refresh your recollection that
12 that happened?

13 MR. HILL: Objection. Lack of
14 foundation. The witness can respond.

15 THE WITNESS: I have no knowledge
16 one way or the other that happened. I have
17 no reason to doubt Mr. Stork when he reports
18 it here.

19 BY MR. YALOWITZ:

20 Q Thank you.

21 Do you recall when Israel began
22 Operation Defensive Shield?

23 A I believe it was in March of 2002.

24 Q Is it consistent with your recollection that
25 it was two days after the Netanya Hotel bombing?

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1 BY MR. YALOWITZ:

2 Q I don't even know what that means when
3 you're asking an expert that, lack of foundation, but
4 Mr. Hill can make his objections.

5 MR. HILL: Well, you're asking the
6 witness a question. My objection is that he
7 lacks firsthand knowledge. I'm just making
8 my record. You're entitled to ask your
9 questions.

10 Go ahead.

11 THE WITNESS: I was not there when
12 it happened, but I did read about it.

13 BY MR. YALOWITZ:

14 Q All right.

15 Are you aware that Palestinian sources
16 confirmed that the PA had earlier detained the
17 bomber but only briefly?

18 MR. HILL: Objection. Lack of
19 foundation.

20 THE WITNESS: I don't recall one
21 way or the other on that.

22 BY MR. YALOWITZ:

23 Q Let me help you out. Let's look at page 31
24 of the Human Rights report.

25 You see Mr. Stork is talking about the

1 A That is consistent with my recollection,
2 yes.

3 Q Now, writing -- when was the Human Rights
4 Watch report? I thought it was December of '02. You
5 think it was October?

6 A I believe it was October.

7 Q I think you're right. I stand corrected.

8 Now, writing in October of 2002, Human
9 Rights Watch said, "Seemingly public
10 justifications of the bombings came from figures
11 close to Arafat, especially after the al-Aqsa
12 Martyrs' Brigades began carrying out suicide
13 bombing attacks against civilians in early 2002."

14 Do you recall that?

15 MR. HILL: Objection. Lack of
16 foundation.

17 THE WITNESS: Are you talking about
18 any specific statement or just in general?

19 BY MR. YALOWITZ:

20 Q Well, why don't we look together at the
21 Human Rights Watch report on page 32.

22 A Okay.

23 Q Do you have it before you?

24 A Page 32, yes.

25 Q So do you see in the last full paragraph

43 (Pages 166 to 169)

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1 Mr. Stork said "Seeming public justifications of the
2 bombings came from figures close to Arafat, especially
3 after the al-Aqsa Martyr Brigades began carrying out
4 suicide bombing attacks against civilians in early
5 2002."

6 Do you see that?

7 A I do.

8 Q Do you believe that Mr. Stork was accurately
9 reporting the facts?

10 A Not if the following -- the quotes that come
11 after that is the evidence that he uses. That would
12 not justify that conclusion from my reading.

13 Q Take a look at the last statement in the
14 paragraph on page 33, the carryover paragraph. This
15 is a quotation from Marwan Bargouti following the
16 March 21 al-Aqsa Martyr Brigades suicide bombing on a
17 crowded Jerusalem shopping street.

18 Do you see where I am?

19 A Yes.

20 Q "Our people have resorted to resistance
21 because we have reached an impasse. The more the
22 Israelis tighten the blockades around us and increase
23 the killing, the more there will be a response."

24 Do you see that?

25 A I do.

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1 nothing. That's a normal human response to fight
2 back, particularly when -- these are civilians; right?
3 I mean there's no army in the West Bank, in Gaza.
4 These are civilians. There are a number of arms
5 around, but there's certainly precious little training
6 even among the so-called professional police and
7 security forces, very little training. And for the
8 most part these are people thinking that they are
9 defending their homes and their families against both
10 a siege and violent attacks.

11 As I said earlier, you've got in just those
12 first few weeks, nearly 100,000 bullets a day were
13 shot by IDF forces at Palestinians. That's enough to
14 wipe out the whole West Bank population in two and a
15 half weeks. This was not a nonviolent situation.

16 Q Do you think that the situation you've
17 described excuses terrorism?

18 A I don't think there is any excuse for
19 terrorism, but I do want to understand the causes of
20 it.

21 Q So your opinion is not that the terrorism
22 was justified; you're just trying to understand the
23 sort of political science behind why people resort to
24 terrorism.

25 Is that fair to say?

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1 Q Do you believe that is an accurate
2 reflection of what Mr. Bargouti said in March of 2002?

3 MR. HILL: Objection. Lack of
4 foundation.

5 THE WITNESS: I have no reason to
6 doubt that he said it, and it is not
7 inconsistent with other things that he has
8 said as well.

9 Where I took issue with your
10 question -- or excuse me -- with Mr. Stork's
11 writing was the word "justifications." I don't
12 read those sentences as justifications as opposed
13 to explanations.

14 BY MR. YALOWITZ:

15 Q Fair enough.

16 You were saying that Bargouti is
17 explaining why suicide bombings are happening
18 here; right?

19 A I read him to say, you know, you hit us,
20 we're going to hit you back. It would be odd for him
21 to say you hit us and we'll turn the other cheek and
22 go away.

23 Q I guess it depends on the guy, doesn't it?

24 A I don't know of any population in the world
25 that would sustain attacks against it and just do

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1 A Suicide bombings directed specifically
2 against civilian targets is illegal and unethical in
3 all situations, in all cases. Of course, not all
4 violence is terrorism, and the Palestinians resorted
5 to a range of violent responses and nonviolent
6 responses to what they perceived as Israeli
7 aggression. From an ethical or legal point of view, I
8 think some of it is justified, some of it's not.

9 From my perspective trying to understand, as
10 you call it, the political science of it, the
11 rationale why certain things are done and certain
12 things are not done, does it surprise me that
13 Palestinians responded to what they perceived as
14 Israeli aggression through violence of their own,
15 including what I would consider illegitimate violence
16 in some cases? I'm not surprised by that.

17 Q Would you look with me on pages 38 and 39 of
18 Mr. Stork's report for Human Rights Watch.

19 Do you have that before you?

20 A Yes, I do.

21 Q He writes, "Apologetic statements by public
22 officials have also been accompanied by the broadcast
23 of incendiary statements on publicly funded
24 television."

25 Do you see that?

44 (Pages 170 to 173)

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1 A Yes, I do.
 2 Q And then he records some instances; right?
 3 A Yes.
 4 Q And you and I, we talked earlier about
 5 PA-funded media; right?
 6 MR. HILL: Objection. Lack of
 7 foundation.
 8 BY MR. YALOWITZ:
 9 Q Maybe we didn't. We talked about
 10 self-censorship in the Palestinian Authority
 11 territories; right?
 12 A Right, and our discussion was in the 1990s,
 13 because of the shrinkage of the public sphere, was
 14 there some degree of self-censorship going on in
 15 Palestinian newspapers, and my answer was yes.
 16 Q And official PA television, that's a channel
 17 that's controlled by the PA itself?
 18 MR. HILL: Objection. Lack of
 19 foundation.
 20 THE WITNESS: To my understanding,
 21 it is actually -- its money comes from the
 22 PA, but it is in operation more or less an
 23 independent body, kind of like the
 24 corporation for public broadcasting in this
 25 country, public monies at least to some

1 THE WITNESS: To the degree that
 2 there was incitement to violence against
 3 Jews, I would suspect that there were a lot
 4 of senior officials of the PA that did not
 5 like that.
 6 BY MR. YALOWITZ:
 7 Q So whereas other organizations had to
 8 exercise self-censorship, PA TV, your opinion is they
 9 did not have to exercise self-censorship?
 10 A Oh, I think they would come under that same
 11 rubric. In other words, they had to be somewhat
 12 careful in what they have to say. My point was, in
 13 terms of some autonomy, is they were not being -- my
 14 understanding is they were not being told, you know,
 15 what content to put on television or radio, you know,
 16 every hour every day.
 17 Q How do you know that? I didn't see in your
 18 scholarly work a study about PA TV.
 19 A This would just be from conversations I've
 20 had with Palestinians during various visits and other
 21 observers, and having watched PA television a bit
 22 myself when I'm there.
 23 Q And what did you think of it?
 24 A Lousy.
 25 Q Mr. Stork writes on page 114 of his

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1 degree, but relative autonomy in terms of
 2 what it broadcasts.
 3 BY MR. YALOWITZ:
 4 Q You think the PA TV has autonomy in what it
 5 broadcasts?
 6 A I would say it has some degree of autonomy
 7 in terms of content, yes. That's my understanding of
 8 it. In other words, you don't have -- there's not
 9 orders coming from, you know, the Muqatam, Arafat's
 10 headquarters. You don't have orders saying, okay, you
 11 know, from 9:00 to 10:00 PM tonight, we want you to
 12 show this and say that. From 10:00 to 11:00 we want
 13 to you say this and show that.
 14 There's obviously going to be presumably
 15 some back-and-forth, but it's my understanding that
 16 there is at least some autonomy in terms of the
 17 content, which is why, incidentally, some things -- my
 18 understanding, some of the things that were said on
 19 Palestinian television actually embarrassed the
 20 Palestinian leadership.
 21 Q Do you think it embarrassed the Palestinian
 22 leadership to have incitement to violence against
 23 Jews?
 24 MR. HILL: Objection. Lack of
 25 foundation. Argumentative.

1 report -- and I'm looking at the third paragraph
 2 under -- do you see the heading "Failure to bring to
 3 justice those who ordered, planned or participated in
 4 suicide attacks on civilians"?
 5 A I see it, yes.
 6 Q And then do you see the third paragraph
 7 where he is responding to the officials? "PA
 8 officials claim that Israeli actions, such as the
 9 destruction of PA police and security installations,
 10 have undermined the PA's capacity to act."
 11 Are you with me?
 12 A Yes.
 13 Q And then the next sentence he says,
 14 "However, the record indicates that the PA for the
 15 most part did not attempt to exercise its capacity to
 16 prevent or punish such crimes even when it had the
 17 ability to do so."
 18 I take it you disagree with him on this?
 19 A I think that's an oversimplification, so I
 20 would take issue with Mr. Stork on it.
 21 Q Let's look at pages 139 to 140 of his
 22 report. Let's see what your views are about 139 and
 23 140. This is his conclusion.
 24 A Mm-hmm.
 25 Q He says, "High-ranking PA officials,

45 (Pages 174 to 177)

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1 including President Arafat, failed in their duty to
2 administer justice and enforce the rule of law in
3 compliance with international standards. Through
4 their repeated failure to arrest or prosecute
5 individuals alleged to have planned or carried out
6 suicide attacks against civilians, they contributed a
7 climate of impunity and failed to prevent the bloody
8 consequences."

9 Do you see that?

10 A I do.

11 Q Do you agree with that?

12 A I think it's a vast oversimplification, and
13 I would also suggest that, in context, I've already
14 mentioned Abu Ghraib and other incidents in Iraq in
15 the context of a violent conflict. It is a different
16 context and essentially a different standard than
17 should be applied to everyday peaceful relations
18 between countries and the implementation of rule of
19 law.

20 So again I'm not justifying it. I'm just
21 saying for Mr. Stork to suggest that the context or
22 the actions should be exactly the same in peace time
23 as in war, I think that's a, as I said, a very large
24 oversimplification on his part.

25 Q Let me ask you this. We've sort of talked

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1 in Area A; that is, areas where the Palestinians had
2 security responsibility.

3 Q Can you remember when any of the other six
4 were? You mentioned there was one in 2001.

5 A The Hebrew University bombing was the end of
6 July of 2002. I don't recall if that was the last one
7 of the series, but it takes -- I mean that's sort of
8 the parameters as I remember them.

9 Q Any others?

10 A You want the exact dates of the others?

11 Q Well, I mean whatever you remember.

12 A I couldn't give you the dates of them. As I
13 recall, the first attack occurred in, in this case in
14 2001. I believe the Hebrew University bombing by
15 Hamas in late July of 2002 I think was the last one,
16 but I'd have to check it again. I was not asked to
17 look and sort of break down the specific attacks so
18 much as put, talk about general command and control
19 and other related issues.

20 Q You mentioned Abu Ghraib. I'm not sure I'm
21 saying that right.

22 A A-B-U, G-H-R-A-Y-B.

23 Q Do you know what happened to the soldiers
24 who were implicated in the misconduct at Abu Ghraib?

25 A To my understanding, the individuals that

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1 about the chronology through kind of mid-2002; right?

2 A Mm-hmm.

3 Q You have to say --

4 A Yes.

5 Q All right.

6 Can you tell me where any of the seven
7 attacks in our case fit in that chronology?

8 A I'm not sure I understand the question.

9 Q Sure.

10 We're in a case. We're here today,
11 because we're in a lawsuit about seven attacks;
12 right?

13 A Right.

14 Q And you familiarized yourself with those
15 attacks at least to some degree?

16 A To some degree, yes.

17 Q All right.

18 Do you know when any of them occurred in
19 the context of the chronology we've been
20 discussing?

21 A I believe the first attack was in 2001.

22 This is of the Sokolow attacks, and I believe all of
23 the attacks were in areas where Israel had official
24 security responsibility. So these were -- to my
25 recollection, I don't believe any of the attacks were

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1 essentially set the policy for Abu Ghraib to happen
2 have not been held accountable, but there were a
3 couple of low-level, including a female officer,
4 low-level folks that had some military punishment
5 against them.

6 Q Are those individuals still in the military
7 service today?

8 A I don't believe they are, but I can't say
9 for sure.

10 Q Is it your understanding that in the United
11 States Army, if you commit a crime against a civilian,
12 you're allowed to maintain your rank and pay within
13 the service?

14 A If you are convicted of a crime -- again, it
15 depends on the military tribunal and what their
16 findings are, but typically if you're convicted of a
17 crime in the military, you are demoted and discharged
18 dishonorably and in some cases have to spend some time
19 in jail.

20 Q Thank you.

21 You mentioned in your report an
22 individual named Mahmud Abu Hanoud. Who was that?

23 A He was again not somebody I knew personally.
24 He was a militant that was arrested by the PA. He was
25 in prison in Nablus during an Israeli bombing of this

46 (Pages 178 to 181)

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1 prison, presumably to try and kill him. He was not
2 harmed, at least not much, and escaped, but I believe
3 four or so Palestinian policemen were killed in that
4 bombing. He was subsequently assassinated at a later
5 date, if I recall the details correctly.

6 Q I see. Right. He was assassinated with,
7 with two individuals; is that right?

8 A I believe that's correct. I'd have to look
9 at it. I don't have the page in front of me that
10 you're looking at.

11 Q Page 51 of your report.

12 A Right. Yes.

13 Q He was with two cousins of Mahmoud Hashaika;
14 is that right?

15 A According to the press reports that I cite
16 here, yes.

17 Q All right, and do you know what Hashaika's
18 position was, what his job was?

19 A I do not. At least I don't recall off the
20 top of my head.

21 Q All right.

22 Would it be convenient to take a break?

23 A Sure, yeah, let's do it.

24 Q I saw your counsel looking at his watch.
25

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1 Is that consistent with your opinions?

2 A Yes, in the sense that the creation of
3 al-Aqsa was -- I think he's absolutely right in saying
4 this was not done at the behest of or with the
5 blessing of the senior Fatah leadership, and in some
6 way it was done in spite of them, but it came out of
7 the Fatah tradition, so yes.

8 Q And their letterhead -- that is, the al-Aqsa
9 Martyrs' Brigades letterhead -- carried the Fatah
10 emblem; right?

11 MR. HILL: Objection. Lack of
12 foundation.

13 THE WITNESS: Jean-Francois
14 Legrain, the French scholar that I mentioned
15 earlier, has studied the letterhead issue,
16 and I have not studied it personally, but he
17 concluded that the letter had actually
18 evolved over time, but certainly at one point
19 it would have had the Fatah emblem on it.

20 If my recollection is correct, it was
21 after Israel's assassination of Ra'id Karmi in
22 January of 2002, that even in the letterhead
23 went -- not only would these groups of
24 individuals called the al-Aqsa Martyrs' Brigade
25 even further removed from the senior Fatah

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1 (Whereupon, a short recess was
2 taken.)

3 MR. YALOWITZ: Brian, what's your
4 time that we have so far?

5 MR. HILL: I think you've used just
6 over four hours.

7 MR. YALOWITZ: That was our
8 estimate.

9 Okay. Let's go back on the record.

10 BY MR. YALOWITZ:

11 Q There was a source you relied on called
12 "Strategic Assessment," something like that?

13 A Mm-hmm.

14 Q And --

15 A A publication of mine.

16 Q And an author named Lavie, Ephraim Lavie I
17 think was his name.

18 A Mm-hmm.

19 Q You found him to be a reliable reporter of
20 the facts?

21 A I did.

22 Q He wrote, "To the dismay of the Fatah
23 veteran leadership, Fatah activists established the
24 al-Aqsa Martyrs' Brigades as a Fatah secret militant
25 wing."

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1 leadership, but I believe symbolically they were,
2 too, and including, if I recall correctly from
3 Lagrain's work, the letterhead symbolically
4 removed from Fatah after that.

5 BY MR. YALOWITZ:

6 Q Do you recall that the al-Aqsa Martyrs'
7 Brigades had websites?

8 A Yes.

9 Q And writing in October of 2002, Joe Stork
10 reported that "the al-Aqsa Martyrs' Brigades
11 letterhead carries the Fatah emblem, as do their
12 websites."

13 Do you have any reason to disagree with
14 his reportage?

15 MR. HILL: Objection. Lack of
16 foundation.

17 THE WITNESS: I mean I assume Joe
18 went to the website at that point in time and
19 looked at it and found a Fatah emblem on it.
20 Again, these people self-identify as Fatah,
21 but were clearly not taking orders from the
22 senior Fatah leadership, as Lavie showed I
23 thought quite persuasively in his article
24 that you just mentioned.
25

47 (Pages 182 to 185)

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1 BY MR. YALOWITZ:

2 Q Al-Aqsa Martyrs' Brigades used women and
3 children as suicide bombers; right?

4 MR. HILL: Objection. Lack of
5 foundation.

6 THE WITNESS: I can think of one
7 woman. I don't recall the use of children as
8 suicide bombers, but I'm open to being
9 convinced otherwise.

10 BY MR. YALOWITZ:

11 Q Sure. Why don't I help you out. Let's look
12 at page 79 of Stork's report. The carryover
13 paragraph, last sentence.

14 A Mm-hmm.

15 Q Does that refresh your recollection?

16 MR. HILL: Objection. Lack of
17 foundation.

18 THE WITNESS: No, it doesn't,
19 because he's not saying suicide bombers here.
20 He's just saying attacks. I don't know if
21 he's referring to suicide bombers as your
22 question asked or other kinds of attacks.

23 BY MR. YALOWITZ:

24 Q Well, what is the subject matter of the
25 Human Rights Watch report?

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1 Martyrs' Brigades are the noblest phenomenon in the
2 history of Fatah, because they restored the movement's
3 honor and bolstered the political and security echelon
4 of the PA."

5 Does that sound familiar to you?

6 A I wasn't there when he said it. I don't
7 know if he said it, but if you tell me he said it, I
8 don't have reason to doubt you.

9 Q Is that something you were aware of before I
10 just read it?

11 A That particular quote?

12 Q Yes.

13 A I don't recall it, but there were a number
14 of -- I mean that specific one, but yes, in the sense
15 that there were a number of quotes by Fatah people and
16 non-Fatah people that are basically part of the
17 propaganda of the Second Intifada, singing the praises
18 of al-Aqsa Martyrs' Brigades when they were doing
19 things that were popular and when not less so.

20 Put it this way: There was no shortage of
21 blustery language frankly on both sides, but including
22 from Palestinian leaders during the Second Intifada.

23 Q Well, March of 2002 was a time when there
24 were a lot of suicide bombings taking place; right?

25 A Yes, because this is following the Karmi

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1 A The subject matter? It is focused on
2 suicide bombings, but typically, like the very next
3 sentence, when it wants to talk with suicide bombings,
4 it uses that phrase. If it uses a phrase other than
5 that, it leads me to believe that maybe there's
6 something else at work here.

7 Q What is the heading of the paragraph we're
8 looking at?

9 A "Involvement in Suicide Bombings."

10 Q Is that a tipoff in your mind that he's
11 talking about children being employed as suicide
12 bombers?

13 A No, because again I'm looking at the
14 paragraph, that paragraph, the next paragraph. When
15 he wants to say suicide bombers, he says suicide
16 bombers. And again, I'm not saying he's not referring
17 to suicide bombings. I'm just saying the sentence you
18 referred to does not say one way or the other if it's
19 suicide bombings, because he only uses the word
20 "attacks."

21 Q Do you think it's acceptable to use children
22 in attacks against civilians?

23 A Never. It's also a war crime.

24 Q Jibril Rajub, our perennial player, was
25 quoted in March of 2002 as saying "the al-Aqsa

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1 assassination.

2 Q And it was a time when the al-Aqsa Martyrs'
3 Brigades had changed their tactics and were now
4 claiming responsibility for some of the most
5 significant suicide bombings; right?

6 MR. HILL: Objection. Lack of
7 foundation.

8 THE WITNESS: That is my
9 understanding.

10 BY MR. YALOWITZ:

11 Q And so when Jibril Rajub said in March of
12 2002 that "the al-Aqsa Martyrs' Brigades are the
13 noblest phenomenon in the history of Fatah," that's
14 not just a casual statement; right?

15 MR. HILL: Objection. Lack of
16 foundation.

17 THE WITNESS: I have no idea if
18 it's a casual statement or not. I have no
19 idea of the context in which he said it.
20 Again, lots of blustery language that was
21 used. I think as a factual statement -- I
22 mean no senior leader like Jibril Rajub is
23 going to publicly say things like, you know,
24 we don't control the situation, we've got --
25 you know, stuff is happening that we have no

48 (Pages 186 to 189)

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1 control over, because it then gives a sense
2 of impotence that no senior leader wants to
3 give off.

4 So, you know, claiming credit for this
5 or that, whether it's true or not, we should
6 understand as a political remark. I would
7 understand this as a political remark, because it
8 doesn't -- I'm not even sure he's suggesting that
9 the senior leadership of Fatah has ordered them
10 to do this. I didn't hear that in the statement.

11 Now, certainly all the evidence
12 suggests that there was a significant divide and
13 again lack of command and control by Fatah over
14 these bands of guys here and there.

15 BY MR. YALOWITZ:

16 Q So you've compared -- you've used the
17 analogy a couple of times of US military; right?

18 A Mm-hmm.

19 Q So, so suppose a -- Jibril Rajub was in
20 essence a senior military leader at the PA; right?

21 A No. He was the West Bank head of preventive
22 security.

23 Q Which is one of the security forces in the
24 Palestinian Authority; right?

25 A Right, but that's not military.

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1 Palestinians had no military.

2 Q So could you imagine a United States, a
3 senior United States official telling the press that
4 suicide bombing is a "noble phenomenon" and keeping
5 his job?

6 A I would be sickened to hear that. Can I
7 imagine this hypothetical? I mean I've never heard of
8 this happening, but certainly it would be an
9 inappropriate statement for a senior military leader
10 to make. No question about it.

11 Q Now, I want to draw your attention to page
12 78 of the Human Rights Watch report.

13 A Mm-hmm.

14 Q And at the bottom of the background section,
15 at the very end, there is a comment about trial
16 proceedings of Marwan Bargouti and others.

17 Do you see that?

18 A Yes, I do.

19 Q What, what Stork is saying is that "the
20 trial proceedings of Bargouti and others who have been
21 arrested for crimes against civilians may provide more
22 definitive answers concerning the degree, if any, of
23 Fatah leaders' command responsibilities for the grave
24 violations of international humanitarian law committed
25 by the al-Aqsa Martyr Brigades"; right? That's what

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1 he's saying?

2 A That's what it says.

3 Q And in reaching your conclusions and
4 rendering your report, you didn't look at any of those
5 trial proceedings; right?

6 A That is correct.

7 Q Thank you.

8 Now, neither individual Fatah leaders
9 nor the ruling council of Fatah ever disassociated
10 Fatah from the al-Aqsa Martyr Brigades; correct?

11 MR. HILL: Objection. Compound.

12 Lack of foundation.

13 THE WITNESS: There was a compound
14 question, so which question are you asking?

15 If you could repeat your question.

16 BY MR. YALOWITZ:

17 Q Sure. Let me repeat it.

18 Neither individual Fatah leaders nor the
19 ruling council of Fatah have disassociated Fatah
20 from the al-Aqsa Martyr Brigades; correct?

21 MR. HILL: Same objections.

22 THE WITNESS: I don't believe that
23 is a correct statement. I'm trying to
24 remember back right now, but as I recall,
25 Arafat himself made illegal the al-Aqsa

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1 Martyrs' Brigades. That would be a pretty
2 clear disassociation if my memory is correct.

3 BY MR. YALOWITZ:

4 Q Do you recall when that was?

5 A Do I recall when that was? I believe it was
6 as early as 2001.

7 Q So let's look together --

8 A I mean I may be mistaken, but I believe it's
9 '01 or '02.

10 Q Let me help you out.

11 A Okay.

12 Q Let's look at page 78. Are you still on
13 page 78 of the Human Rights Watch report?

14 A Yes.

15 Q Do you see in the middle Stork says, "On the
16 other hand, to our knowledge, neither individual Fatah
17 leaders nor the ruling council of the organization
18 have contested this claim" -- that's the claim that
19 the al-Aqsa Martyrs' Brigades are the military wing of
20 the organization -- "or publicly disassociated Fatah
21 from the al-Aqsa Martyrs' Brigades."

22 Do you see that statement?

23 A I see that statement, yes.

24 Q Do you have reason to doubt the accuracy of
25 that statement as a matter of fact?

49 (Pages 190 to 193)

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1 MR. HILL: Objection. Lack of
2 foundation. The witness can respond.

3 THE WITNESS: Yes, in the sense
4 that this would tell me that the public
5 disassociation in terms of making, of
6 outlawing al-Aqsa Martyrs' Brigade came
7 subsequent to Mr. Stork writing this
8 sentence.

9 BY MR. YALOWITZ:

10 Q So that would put a bookend of October of
11 2002 at the earliest; right?

12 MR. HILL: Objection. Lack of
13 foundation.

14 THE WITNESS: Again, I don't even
15 know what the question is. What do you mean
16 by "bookend"?

17 BY MR. YALOWITZ:

18 Q Sure. Fair enough. Let me restate the
19 question.

20 Stork was writing in October of 2002;
21 right?

22 A Correct.

23 Q So your best estimate, without going back
24 and checking the record, is that if Fatah
25 disassociated from the al-Aqsa Martyrs' Brigades, it

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1 his trial; right?

2 A I have not.

3 Q You have not looked at his sentencing
4 statement; right?

5 A I have not.

6 Q Do you know whether he is on the PA payroll
7 today?

8 A Do I have personal knowledge of it? No. I
9 would imagine he is being treated in the same way that
10 any other arrested Palestinian is in terms of being
11 given a stipend by the PA.

12 Q When you say "arrested Palestinian," you
13 mean arrested Palestinian for political crimes?

14 A It is my understanding that there is a
15 distinction made between the, again those arrested in
16 the national liberation struggle versus those arrested
17 for, petty criminals, burglars, thieves, that sort of
18 thing.

19 Q Do you know what Abdel Karim Oweis was
20 convicted of?

21 A The exact charges that he was convicted of,
22 no. Probably murder would be my guess.

23 Q Do you know what sentence he is serving?

24 A Probably life. Multiple life would be a
25 good guess.

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1 would have been after October of 2002; fair to say?

2 MR. HILL: Objection. Misstates
3 the witness's testimony. Lack of foundation.
4 You can respond.

5 THE WITNESS: I would just want to
6 look up when the outlawing of al-Aqsa
7 Martyrs' Brigades was, and then we can answer
8 the question quite simply.

9 BY MR. YALOWITZ:

10 Q All right. When we're together in New York
11 and in front of the jury, I'm going to ask you this
12 question, and so I'm sure you'll be prepared for it.

13 A Fair enough.

14 Q Good.

15 Now, I think I asked you already and you
16 said you didn't look at the -- you haven't looked
17 at anybody's trial record; right?

18 A Anybody in terms of this case --

19 Q Yes.

20 A -- or earlier cases? I have not looked at
21 trial records.

22 Q You mentioned Abdel Karim Oweis in your
23 report; correct?

24 A Right.

25 Q You have not looked at the proceedings in

Page 197

1 Q Do you have a directional idea of how many
2 life sentences he's serving?

3 A I do not know. I doubt he's getting out
4 anytime soon.

5 Q Do you know what his rank is today in the PA
6 security services?

7 A I believe he is referred to as a colonel.

8 Q Should we look at a document and see if that
9 helps?

10 A Sure.

11 Q All right. We'll mark as Robinson Exhibit 7
12 a document Bates numbered 0290406.

13 (Exhibit 7 was marked for
14 identification.)

15 BY MR. YALOWITZ:

16 Q Do you have Robinson Exhibit 7 before you?

17 A I do.

18 Q And I take it this is not a document you've
19 seen before; right?

20 A Not to my knowledge, no.

21 Q Do you want to take a moment to review it?

22 A Yes, please.

23 Q Let me know when you've had the opportunity.

24 A Okay. Go ahead.

25 Q Do you know what it is?

50 (Pages 194 to 197)

Page 198

1 A It is a document on letterhead of the State
2 of Palestine, general security. It's a statement from
3 the northern area that concerns Mr. Oweis.

4 Q Does it -- can you tell what his rank is as
5 of September of 2011?

6 MR. HILL: I'll object. Lack of
7 foundation. It's not apparent to me that the
8 document says that, but the witness will try
9 and respond.

10 BY MR. YALOWITZ:

11 Q Sure.

12 Do you see at the top right there's a
13 date of September 27, 2011? Top left.

14 A Top left up here, yeah. That does not
15 appear to be a date that's original to the document,
16 because the document itself has a date of 1994.

17 I'm sorry. Wait a minute. It's hard to
18 read here.

19 That's an interesting -- I don't -- it's
20 also in a different font, so I'm not sure what to make
21 of that date.

22 Q Does 1994 reflect the date he joined the
23 public security services?

24 A Yes, correct, but I'm still unclear what the
25 2011 date is, because it seems to be in a very

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1 depose Fadi another time.

2 MR. FADI: I'd rather not.

3 BY MR. YALOWITZ:

4 Q All right.

5 Can you tell me what any of the ranks
6 that Mr. Oweis received were?

7 MR. HILL: Objection. Lack of
8 foundation.

9 THE WITNESS: Yeah, I need to
10 review my military ranks here.

11 BY MR. YALOWITZ:

12 Q Are you unfamiliar with the military ranks?

13 A It's been a long time since I looked at
14 them. I mean I know some, but I would need a
15 refresher.

16 Q All right.

17 A I don't know what a Nqeb Sharif is, for
18 example.

19 Q Does it appear to you from this document
20 that Mr. Oweis has received promotions?

21 MR. HILL: Objection. Lack of
22 foundation.

23 BY MR. YALOWITZ:

24 Q Sure, and I'm asking. I'm not representing.
25 I'm asking.

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1 different font from the rest of the document.

2 Q All right.

3 Do you see there's sort of a middle
4 panel that has a series of dates and ranks?

5 A Yes.

6 Q And that reflects the promotions that
7 Mr. Oweis received; is that right?

8 MR. HILL: Objection. Lack of
9 foundation.

10 THE WITNESS: I'll take your word
11 for it.

12 BY MR. YALOWITZ:

13 Q Well, I'm asking you.

14 MR. HILL: Objection. Lack of
15 foundation. The witness can respond if he
16 wants.

17 THE WITNESS: It appears to.

18 BY MR. YALOWITZ:

19 Q Can you tell me what the highest rank that
20 Abdel Karim Oweis has advanced to, according to this
21 document?

22 A I'm not sure what that -- I think it's a
23 colonel, but again -- if Fadi wants to help out,
24 that's fine.

25 Q Well, I mean it's your deposition. We can

Page 201

1 A I wouldn't want to answer that. I mean
2 again, I would need to look for -- I have not seen a
3 sort of a datasheet and how this is done in general,
4 so I really don't want to speculate on something that
5 I don't have really firsthand knowledge of.

6 Q All right. Is it fair to say that
7 understanding -- well, let me strike that question.

8 Do you have the expertise to understand
9 this document?

10 A I can -- I have -- I can understand part of
11 the document, but not fluent. I can't understand all
12 of it.

13 Q All right. Thank you.

14 Now --

15 A If you give me a Hans-Wehr dictionary, I
16 could get through it, though.

17 Q Do you have such a dictionary at your
18 disposal now?

19 A Here? No.

20 Q You might want to bring it to New York when
21 we're together.

22 Now, why don't we, why don't we do one
23 other one. Why don't we look at Bates number
24 28960.
25

51 (Pages 198 to 201)

Page 202

1 (Robinson Exhibit 8 was marked for
2 identification.)
3 BY MR. YALOWITZ:
4 Q Can you tell me what this document is?
5 A It is -- well, actually it's a little
6 confusing, because it's both from the State of
7 Palestinian and it's from the PLO, and the print here
8 is very hard to read, incidentally. Administrative
9 matters, and this --
10 Q Can you tell me who it relates to?
11 A Majid Ismail Muhammad al-Masri.
12 Q Do you know who that is?
13 A The Masri family is a very well-known family
14 from Nablus. I'm drawing a blank on this particular
15 individual.
16 Q Can you tell what unit he's in?
17 MR. HILL: Objection. Lack of
18 foundation.
19 THE WITNESS: He's an (speaking in
20 Arabic). I'm trying to remember the rank.
21 What unit -- it looks like he's in a police
22 unit.
23 BY MR. YALOWITZ:
24 Q Can you tell anything about --
25 A Northern District, but . . .

Page 203

1 Q Can you tell from this document whether he
2 was deported at any time from Israel and the
3 territories?
4 A It has his birth date there in 1972. This
5 is very poor quality. It's very hard for me to read
6 it. It appears that he may have been deported in
7 1992, but I'm having trouble just reading the
8 lettering here, because it's very fuzzy.
9 Q Does it appear to you that he received a
10 promotion at the time of his deportation?
11 A I can't tell.
12 Q Do you see in -- do you see that he's -- it
13 looks like there's an entry dated July 17, 1992.
14 A Yeah, July 17, 1992, right.
15 Q Can you tell what rank he was as of that
16 promotion?
17 A "First" something or other. I don't recall.
18 Again my ranks, I need to review them.
19 Q Sure.
20 Do you -- is there some honorary rank
21 that he's getting there? Can you tell anything
22 like that?
23 A Honorary rank? It may be what they mean by
24 the (speaking in Arabic) here, an honorary whatever it
25 is. It's just hard for me to read.

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1 Q All right. Shall we go to another one.
2 A Sure.
3 Q Let's look at Bates number -- a document
4 with a Bates number beginning at 026761 and ending at
5 026764. We'll mark it as Robinson Exhibit 9.
6 (Robinson Exhibit 9 was marked for
7 identification.)
8 BY MR. YALOWITZ:
9 Q Do you have Exhibit 9 before you?
10 A I do.
11 Q Do you know what that is?
12 A (Speaking in Arabic) is social research.
13 It's under the social affairs department of the
14 Palestinian National Authority.
15 Q And what is the, what is the next
16 subdivision of that? What is the subdivision of that
17 ministry in particular?
18 A Social affairs ministry. Is that what your
19 question was?
20 Q No, no. The subdivision.
21 MR. HILL: Objection.
22 THE WITNESS: Essentially the
23 martyrs subdivision.
24 BY MR. YALOWITZ:
25 Q Do you know what the martyrs subdivision

Page 205

1 does?
2 A I believe this is the, the agency that
3 provides the monetary, provides a little money to
4 families of people who were killed in the cause or
5 killed in the fight.
6 Q Have you ever seen a document like this
7 before?
8 A You mean social research or this particular
9 ministry?
10 Q We've been referring to these as martyrs
11 files. Do you know what that is?
12 A I do in general.
13 Q Have you ever seen a martyr file before?
14 A I have not, not in the original.
15 Q Could you look at the department's
16 recommended -- by the way, do you know whose martyr
17 file this is?
18 A Handwritten Arabic is impossible to read.
19 This is for the Second Intifada, and the name is
20 Khalil Adweis, I think.
21 Q Can you read the first name?
22 A It looks like -- it's kind of hard to read.
23 Rohdaw? I can't make out the first time. Khalil
24 Adweis.
25 Q Okay, and could you look with me at the

52 (Pages 202 to 205)

Page 206

1 department's recommendation?

2 A Which page are you on here?

3 Q Last page.

4 A Last page? Excuse me. My file came apart.

5 Q Sure. Take your time.

6 Do you have the department's
7 recommendation before you?

8 A I have it. It's in handwritten Arabic, and
9 I cannot make it out. It's too sloppy.

10 Q All right. I'm going to read a statement
11 and I'm going to ask you if you believe it's correct,
12 unless you want to study the martyr file further.

13 A It's kind of interesting.

14 Q It's yours to keep. Your counsel will give
15 you a copy.

16 A Go ahead.

17 Q All right.

18 This is a statement I'm going to read.
19 You tell me if you agree or disagree. Okay?

20 "The al-Aqsa Martyrs' Brigades are an
21 armed faction affiliated with Fatah, which emerged
22 after the start of the al-Aqsa Intifada. They
23 have carried out numerous attacks on Israelis,
24 worked closely with other groups, and deployed the
25 first female suicide bomber of the Intifada."

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1 BY MR. YALOWITZ:

2 Q I wanted to ask you a question about page 30
3 of your report.

4 A Mm-hmm.

5 Q Do you have that?

6 A I do.

7 Q You wrote at the bottom of the carryover
8 paragraph, "The policy also seems to have worked.
9 There were no more sole AAMB suicide bombings inside
10 Israel."

11 Do you see where I'm reading?

12 A No.

13 Q It's like the third line from the bottom of
14 the carryover paragraph on page 30.

15 A So at the top of the page here?

16 Q Yes, sir.

17 A Okay. Oh, yes. Here we are. Yes, I see
18 that.

19 Q All right.

20 What was the time frame you were
21 referring to?

22 A The top of the paragraph refers to a BBC
23 investigation of November 2003 that came up in some
24 documents from some of your experts, and about the
25 payment issue, so it was a document that would have

Page 207

1 A True.

2 Q All right. Thank you.

3 Now, do you agree that Arafat made
4 payments to the al-Aqsa Martyrs' Brigades?

5 MR. HILL: Objection. Lack of
6 foundation.

7 THE WITNESS: I don't have any
8 evidence that he made payments to al-Aqsa
9 Martyrs' Brigades. I think there is evidence
10 that monies were given to individual members
11 from time to time, as we've already discussed
12 today.

13 And there's no -- just to clarify,
14 there's not like an office there. It's not like
15 there's a bank account that's the al-Aqsa
16 Martyrs' Brigades account that you transfer money
17 to. It's not a thing. It is groups of people
18 who self-identify as Fatah, who are militants
19 that became basically fed up not just with the
20 Israelis during the Second Intifada but frankly
21 even with the senior leadership of the PLO. In
22 general, they would have viewed Oslo as a
23 failure, and they took up arms in defense of --
24 in their minds, in defense of their homeland.
25

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1 been referring to events prior to November 2003.

2 Q I see.

3 So your understanding is that after
4 November 2003, al-Aqsa Martyrs' Brigades did not
5 conduct any sole AAMB suicide bombings inside
6 Israel.

7 Do I have that right?

8 A I'm not sure that you do, because I'm not
9 sure that the BBC report of November 2003 is, is the
10 same as the money policy exactly, but it's going to be
11 pretty close in timing.

12 Q That's what I was asking. You made a
13 statement about timing, and I just didn't understand
14 the timing.

15 A Yeah.

16 Q So just explain what the timing is in your
17 expert opinion.

18 A I am trying to remember. I believe it was
19 2003 when the -- sometime during 2003, probably later
20 in the year, if I remember correctly, where you ceased
21 having suicide bombings that were solely the work of
22 AAMB.

23 Q Okay, thank you. That's helpful. I just
24 didn't understand that.

25 A I'm sorry. Inside Israel. Important caveat

53 (Pages 206 to 209)

Page 210

1 there.

2 Q Right. Understood.

3 Okay. Now, let's look together at the
4 State Department report from 2002, which we'll
5 have to mark. I'm afraid it's a large document.

6 (Robinson Exhibit 10 was marked for
7 identification.)

8 BY MR. YALOWITZ:

9 Q Do you have Robinson Exhibit 10 before you?

10 A I do.

11 Q All right.

12 This is one of the documents you
13 reviewed in anticipation of your report; right?

14 A I suggested I reviewed a number of these.
15 Was 2002 itself one of them? Probably, but I can't
16 remember specifically.

17 Q All right.

18 Why don't you turn with me to page 56.

19 By the way, I didn't see the 2002 report
20 cited in your expert opinion. Did I overlook it?

21 A I cited this document, but I believe it was
22 the 2007 version.

23 Q All right.

24 A It had to do with the relation between Fatah
25 and AAMB.

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1 THE WITNESS: The payments that
2 were made from the PA, according to the ODS
3 documents, the payments that were made either
4 always or almost always coincided with
5 periods of cease-fires. In other words, it
6 seemed to be a plausible explanation was this
7 was an attempt by Arafat to essentially buy
8 quiet, to allow a cease-fire to work.

9 MR. YALOWITZ: Let's ask Laurie
10 to -- I appreciate your answer and I
11 understand that's your thesis. I'm just
12 getting at the facts here, so let's let
13 Laurie read the question back and just focus
14 on the question, and then give me your answer
15 to it.

16 (Whereupon, reporter reads
17 requested material.)

18 MR. HILL: Objection. Lack of
19 foundation.

20 BY MR. YALOWITZ:

21 Q Is it?

22 MR. HILL: Same objection.

23 THE WITNESS: Sitting here today, I
24 do not recall when it is alleged that the
25 first payments went from the PA to members of

Page 211

1 Q Let's look at the '02 version. This is
2 reporting on events that happened in 2002; right?

3 A I believe so, yes.

4 Q And look with me at the very last word in
5 the first column on page 56, which is "documents."

6 A Correct.

7 Q So this is the State Department reporting,
8 and they say, "Documents seized by the Israelis and
9 information gleaned from the interrogation of arrested
10 al-Aqsa members indicate that Palestinian Authority
11 and Fatah members, including Chairman Yasir Arafat,
12 made payments to al-Aqsa members known to have been
13 involved in violence against Israelis."

14 Do you see that?

15 A I do.

16 Q Is that consistent with your understanding
17 of what happened in 2002?

18 A Yes.

19 Q All right.

20 Now, is it consistent with your
21 understanding that there were payments made to
22 members of the al-Aqsa brigades in the final
23 months of 2000 and throughout 2001?

24 MR. HILL: Objection. Lack of
25 foundation.

Page 213

1 the brigades.

2 BY MR. YALOWITZ:

3 Q Let me help you out. Let's look at page 125
4 of Joe Stork's report.

5 This is a section entitled "Palestinian
6 Authority Payments to Armed Militants."

7 Do you see that?

8 A Yes.

9 Q And then look at the second paragraph under
10 that heading, toward the bottom of that paragraph,
11 Stork writes, "During the time period of the payments
12 in the final months of 2000 and throughout 2001,
13 members of the Fatah affiliated al-Aqsa Martyrs'
14 Brigades, carried out shooting attacks against
15 civilians in the occupied territories as well as
16 against military targets, and in late November 2001
17 the al-Aqsa Martyrs' Brigades claimed responsibility
18 for an indiscriminate shooting attack against
19 civilians in the Israeli City of Hadera."

20 Do you see that?

21 A I do.

22 Q Does that refresh your recollection that
23 payments to the al-Aqsa Martyrs' Brigades took place
24 in the final months of 2000 and throughout 2001?

25 MR. HILL: Objection. Lack of

54 (Pages 210 to 213)

Page 214

Page 216

1 foundation. Misstates the content of the
2 document.

3 THE WITNESS: And the answer is no.
4 BY MR. YALOWITZ:

5 Q It does not refresh your recollection?

6 A Joe Stork is writing this in the fall of
7 2002. The documents or some of the documents had been
8 released fairly shortly before this by the IDF. This
9 is before folks had a chance to really look at them
10 and to critique them.

11 So when Joe Stork was writing this at that
12 time, he would not have had access to critiques of the
13 documents by Jean-Francois Lagrain and other people
14 that cast some serious doubt about the credibility of
15 the documents.

16 Q Well, assume that the documents are
17 authentic. Can you make that assumption?

18 A If you'd like me to.

19 Q Assume that the jury concludes the documents
20 are authentic. All right? Assuming that the jury
21 concludes the documents are authentic, can you explain
22 whether you agree or disagree with Mr. Stork's
23 conclusions on page 125 of his report?

24 MR. HILL: Objection. Vague.
25 Compound.

1 individual named Ra'id al-Karmi; right?

2 A Correct.

3 Q Now, Mr. Stork reported that al-Karmi
4 received payments authorized by President Arafat;
5 right?

6 MR. HILL: Objection. Lack of
7 foundation.

8 THE WITNESS: Yeah, I don't recall,
9 but it wouldn't surprise me. I'll take your
10 word for it.

11 BY MR. YALOWITZ:

12 Q Well, don't take my word. Look on page 126
13 with me.

14 A All right.

15 MR. HILL: What's the question?

16 BY MR. YALOWITZ:

17 Q Do you have page 126?

18 A I do.

19 Q Mr. Stork is reporting that Arafat
20 authorized payment to al-Karmi; right?

21 A Correct. That's what it says.

22 Q And remind me when al-Karmi was killed?

23 A January 2002.

24 Q So the payments had to have taken place
25 before then; right?

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Page 217

1 BY MR. YALOWITZ:

2 Q With the assumption.

3 MR. HILL: Lack of foundation. The
4 witness can respond if he can.

5 THE WITNESS: Could you repeat the
6 exact question, please.

7 BY MR. YALOWITZ:

8 Q Sure.

9 Assuming that the jury concludes that
10 the documents are authentic, do you have any
11 reason to doubt the accuracy of Mr. Stork's
12 conclusions on page 125 that payments were
13 provided by the PA to the al-Aqsa Martyrs'
14 Brigades in the final months of 2000 and
15 throughout 2001?

16 MR. HILL: Objection. Lack of
17 foundation. Misstates the content of the
18 document.

19 THE WITNESS: I am sure that
20 Mr. Stork, with the knowledge available to
21 him at the time, reported this as fairly and
22 as accurately as possible.

23 BY MR. YALOWITZ:

24 Q Thank you.

25 Now, we talked a little earlier about an

1 MR. HILL: Objection. Lack of
2 foundation.

3 THE WITNESS: One would presume.

4 BY MR. YALOWITZ:

5 Q All right.

6 You mentioned a BBC article earlier.

7 A The BBC monitoring service, correct.

8 Q From November of 2003?

9 A I don't have the date in front of me, but
10 yes, we did discuss an article.

11 Q Right. You've reviewed that article; right?

12 A I did for the report, yes.

13 Q And is it your view -- do you have a doubt
14 about the facts reported in the BBC article?

15 MR. HILL: Objection. Lack of
16 foundation.

17 THE WITNESS: I would want to see
18 the -- I mean I'd want to see the article in
19 front of me, and I'd want you to ask me what
20 in particular I would have my doubts about.

21 BY MR. YALOWITZ:

22 Q All right. Let's do that. That's a
23 reasonable request.

24 A Excellent.

25 Q I will honor it. I think I'll honor any

55 (Pages 214 to 217)

<p style="text-align: right;">Page 218</p> <p>1 request pretty much you make. 2 A I'm a reasonable guy. 3 (Robinson Exhibit 11 was marked for 4 identification.) 5 BY MR. YALOWITZ: 6 Q Do you see the BBC article we were talking 7 about? 8 A I see a BBC article, yes. 9 Q All right. Is this the one you were 10 thinking of? 11 A I believe it is the same one, yes. 12 Q Do you want to take a moment to familiarize 13 yourself with it and be sure? 14 A Yes, it is the same one. 15 Q All right. 16 The BBC reports in its lead paragraph, 17 "A total of up to \$50,000 a month is being sent to 18 members of the al-Aqsa Martyrs' Brigades, an armed 19 group that emerged shortly after the outbreak of 20 the current Palestinian Intifada." 21 Do you see that? 22 A I do. 23 Q Do you agree or disagree with the facts as 24 stated in the lead paragraph? 25 MR. HILL: Objection. Lack of</p>	<p style="text-align: right;">Page 220</p> <p>1 (Robinson Exhibit 12 was marked for 2 identification.) 3 BY MR. YALOWITZ: 4 Q What is the CFR? 5 A Council on Foreign Relations. 6 Q What's the name of the author that prepared 7 this? 8 A Holly Fletcher. 9 Q Do you know her? 10 A Not personally. 11 Q Do you find CFR to be a reliable reporter of 12 the facts? 13 A Generally, yes. 14 Q You relied on this particular document? 15 A I used this document, correct. 16 Q And you found it to be a reliable document; 17 right? 18 A Yes. 19 Q You found it to be something that the jury 20 should rely on in this case; right? 21 MR. HILL: Objection. Lack of 22 foundation. 23 THE WITNESS: I found it 24 informative enough to use part of it in my 25 report.</p>
<p style="text-align: right;">Page 219</p> <p>1 foundation. 2 THE WITNESS: It is consistent with 3 my understanding, especially with the wording 4 in the next paragraph, that this was an 5 attempt to essentially buy quiet, where the 6 same source is saying this is an attempt to 7 wean gunmen away from suicide bombings. I 8 think that is a fair representing of at least 9 my understanding of why payments were made to 10 militants. 11 BY MR. YALOWITZ: 12 Q You understand that al-Aqsa Martyrs' 13 Brigades decision to target civilians in 2002 prompted 14 the US State Department to list the brigade as a 15 terrorist organization; right? 16 MR. HILL: Objection. Lack of 17 foundation. 18 THE WITNESS: And it needs to be 19 kept in the plural, yes, brigades, 20 organizations, yes. 21 BY MR. YALOWITZ: 22 Q So can we look together at the CFR document 23 you cited? Let me just see if I can -- if I can put 24 that in front of you. 25 That's Robinson Exhibit 12.</p>	<p style="text-align: right;">Page 221</p> <p>1 BY MR. YALOWITZ: 2 Q It's a document of the type which is 3 reasonable for people in your field to rely on; right? 4 A Yes. It's a background report written in 5 2008 by Holly Fletcher on sort of background 6 information. It's a way for somebody to take ten 7 minutes and get reasonably smart on the al-Aqsa 8 Martyrs' Brigades phenomenon. 9 Q All right. Is there anything in it that you 10 disagreed with? 11 A Perhaps. I would have to read it from 12 scratch if you wanted me to -- 13 Q Please. Please do. 14 A Okay. 15 The first page I have nothing to disagree 16 with. 17 On the second page the only quibble I would 18 have in the second paragraph is the use of the word 19 "alliance." It says, "The al-Aqsa Martyrs' Brigades 20 consists of localized autonomous units" -- that's 21 correct -- "that mostly act independent of each 22 other" -- also correct -- "united under a common 23 alliance to Fatah." 24 I think the word that Ms. Fletcher used 25 before, which was I believe "affiliated" is a more</p>

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1 accurate word to use as opposed to "alliance" as a
2 more formal definition, at least in political science.

3 On the bottom of page 2, again I quibble
4 with the last sentence in the last full paragraph.
5 "Direct orders from the head of Fatah to the brigade
6 would have been more probable under Yasir Arafat than
7 under Abbas." She doesn't provide any evidence for
8 that, so I would probably quibble with that wording,
9 but everything else on that page is fine.

10 Q What word would you use to describe -- what
11 wording would you change in the sentence you just
12 read?

13 A I don't think she has, or at least she
14 doesn't link to evidence to substantiate that claim,
15 so I would, I would have not put in the sentence at
16 all unless I could substantiate it.

17 Q Aren't you the guy who said that there was a
18 cult of personality around Arafat? Isn't that you?

19 A The regime was trying to create a cult of
20 personality around Arafat, correct.

21 Q And he had control of the security forces
22 until his dying day? Wasn't that you?

23 A You're conflating two things. Here she's
24 talking about direct orders, like, you know, go blow
25 this bus up, and makes a claim that may or may not be

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1 overstate that relationship in the way it was
2 described there.

3 Q What is your basis for saying "they caught
4 flack"?

5 A This is just what I've heard through the
6 grapevine. I can't cite chapter and verse, but the
7 fact that the previous reports and the subsequent
8 reports, including the one I quoted from 2007, talk
9 about an affiliation but essentially autonomous units
10 that do not take orders from the senior leadership of
11 Fatah, I mean we have a whole string of those, and I
12 think most experts in the field would agree with that
13 characterization.

14 And then you have this one outlier, and
15 again the fact that they went away from that the
16 following year and in subsequent years suggests that
17 they themselves reconsidered.

18 Q In 2004 Jibril Rajub gave an interview with
19 al-Jazeera in which he was quoted as saying the
20 al-Aqsa Martyrs' Brigades is part of Fatah.

21 Do you recall that?

22 MR. HILL: Objection. Lack of
23 foundation.

24 THE WITNESS: Do I recall the
25 specific comment? No, but it's consistent

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1 true. I haven't seen any evidence to substantiate it,
2 and unless she has evidence to substantiate it, if it
3 were me writing this, I would not have included that
4 sentence.

5 Q Would you let me know when you've arrived at
6 page 4 of your review?

7 A Okay. I'm just finishing page 3. That
8 seems accurate to me. I am now starting page 4.

9 Page 4 is a list of attacks that the author
10 is attributing to al-Aqsa. I have no reason to doubt
11 any of that, any of those bullet points. I'm now on
12 page 5.

13 Yeah, so other than those couple of
14 quibbles, I think it's a very solid document to
15 introduce an American reader to al-Aqsa Martyrs'
16 Brigades.

17 Q Thank you.

18 In its 2004 report, the United States
19 Department of State called al-Aqsa Martyrs'
20 Brigades "Fatah's military wing."

21 Does that sound right to you?

22 A Yes, they did. It was the only one of those
23 reports that they ever did that. My impression is
24 they caught flack for overstating the relationship,
25 which is why in all subsequent reports they did not

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1 with the earlier comments you quoted Rajub
2 making and some other comments that are out
3 there.

4 BY MR. YALOWITZ:

5 Q In 2004 Ahmed Qurei, what was his job in
6 2004?

7 A I believe he was still Prime Minister at the
8 time.

9 Q And he was quoted as saying that the al-Aqsa
10 Martyrs -- he was reported to have said "the al-Aqsa
11 Martyrs' Brigades military wing of the Fatah movement
12 will not be dissolved, and Fatah will never relinquish
13 its military wing."

14 Do you recall seeing that?

15 A Again, there are a number of statements by
16 senior folks that are I think making political
17 statements that are not necessarily factually true.

18 Q So you think the Prime Minister of the
19 Palestinian Authority was making a factually
20 inaccurate statement to al-Jazeera?

21 A Yes.

22 Q He was quoted as saying, "We publicly
23 declare that the al-Aqsa Martyrs' Brigades is part of
24 Fatah movement, and we committed with that."

25 Does that sound like he was lying? Is

57 (Pages 222 to 225)

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1 that your impression?

2 MR. HILL: Objection. Lack of
3 foundation. Vague.

4 THE WITNESS: And I would not use
5 the word "lying." What I would say is he's
6 making a political statement, because no
7 leader, at least no leader I've ever heard
8 would ever stand up and say we've lost
9 control of the situation, we have little
10 power over these folks that are often acting
11 in our name. What leader wants to stand up
12 and sound impotent like that?

13 So, of course, they're beating their
14 chests and saying yes, we control everything, but
15 factually that is not a true statement, as every
16 analyst that -- you know, I quoted many of them
17 in my report who have studied this issue came to
18 the same conclusion that I have drawn.

19 BY MR. YALOWITZ:

20 Q Have we marked the entry points document
21 yet? I don't believe so.

22 A Can we take a short break.

23 Q Sure.

24 (Whereupon, a short recess was
25 taken.)

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1 me what Friedrich and Leuthold described the al-Aqsa
2 Martyrs' Brigades as.

3 A Incidentally, this particular chapter is
4 Friedrich and Najib.

5 Q All right, fair enough, but Friedrich and
6 Najib are the authors that you relied on in your
7 report when you reached your conclusions; right?

8 A From this chapter, yes.

9 Q All right, and on page 115 what is their
10 topic sentence of how they describe the al-Aqsa
11 Martyrs' Brigades?

12 A Al-Aqsa Martyrs' Brigades (speaking in
13 Arabic).

14 THE REPORTER: I'm sorry. I can't
15 take down a foreign language.

16 MR. YALOWITZ: It's okay with me
17 that, unless it's like an important word,
18 where the witness says a short phrase in
19 Arabic, for you to write "short phrase in
20 Arabic."

21 The record will reflect that Brian has
22 no objection to my proposed course of action.
23 It's my deposition.

24 MR. HILL: It's your record.

25 MR. YALOWITZ: That will help us.

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1 (Robinson Exhibit 13 was marked for
2 identification.)

3 BY MR. YALOWITZ:

4 Q While we were off the record we marked a
5 book which I've been calling "Entry Points" which I
6 think you mentioned in your testimony and cited in
7 your report.

8 A Yes. Correct.

9 Q And how do you refer to that book?

10 A I put it in my footnotes as Friedrich and
11 Leuthold, but with a full citation, you can call it
12 entry points. That's fine.

13 Q All right, and you found it to be a
14 reliable, reliable source; right?

15 A I did.

16 Q Would you tell me -- well, there are various
17 chapters, right, first of all? Do I have that right?

18 A Let me see the table of contents. I was
19 using it specifically in regard to relationships
20 between various groups, command and control issues
21 essentially.

22 Q I think you relied on a chapter that begins
23 like at page 103.

24 A That was one of them, yes.

25 Q So could you turn to that chapter and tell

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1 BY MR. YALOWITZ:

2 Q All right. Please describe how Frederick
3 and Najib in their topic sentence on the al-Aqsa
4 Martyrs' Brigades describe that entity.

5 A "A local response by grassroots Fatah
6 activists who fear that their movement would lose
7 legitimacy and popular support to Hamas and Islamic
8 Jihad in the course of Intifada."

9 Q What page are you looking at?

10 A 115.

11 Q I'm just not seeing where you're reading
12 from.

13 A Second full paragraph. It says, "In many
14 respects al-Aqsa Brigades," and then they just defined
15 it. That's what I read.

16 Q All right.

17 What about the first paragraph, the
18 first sentence? What's the first thing they say
19 about it?

20 A "The al-Aqsa Martyrs' Brigades are the
21 military arm of the Palestinian national liberation
22 movement. Fatah, the reverse acronym of (speaking in
23 Arabic), they were one of the driving forces behind
24 the Second Intifada."

25 Shall I continue?

58 (Pages 226 to 229)

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Q No. That's all right.

A Okay.

Q In this chapter, Friedrich and Najib tell us Arafat provided the brigades with money "to contain them and keep them under his control."

Do you agree with that?

MR. HILL: Objection. Lack of foundation.

THE WITNESS: I would add "as best he could."

BY MR. YALOWITZ:

Q They wrote that in the summer of 2005, the al-Aqsa Martyr Brigades "were largely put on the PA payroll."

Do you agree with that?

A I don't know where you're quoting from.

MR. HILL: Objection. Foundation.

BY MR. YALOWITZ:

Q Sure. Let's look at page 119.

Do you see where it says "in the summer and autumn of 2005, the brigades were largely put on the payroll of the PA security services"?

A I do.

Q Do you agree with that?

MR. HILL: Objection. Lack of

A Well, since I wrote it, I think it's absolutely right.

Q Now, I'm going to read a statement and I'm going to ask you if you agree with it.

"Yasir Arafat retained virtually exclusive control over the Palestinian security forces until his death in November 2004."

A Yes, in that he was the point guy. He was the person that the top leaders of these various police and security forces would report to directly, so in that sense he had no competitor. Again, part of the coup-proofing strategy that we discussed earlier.

Q In the year -- during the al-Aqsa Intifada, beginning in 2000, "members of the Palestinian internal security forces participated in anti-Israeli violence."

True?

A As individuals, yes, true.

Q "There is significant evidence of collusion between the Palestinian Authority's security forces and anti-Israeli terrorists."

Correct?

MR. HILL: Objection. Lack of foundation.

THE WITNESS: And I don't even

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foundation.

THE WITNESS: By that time in the evolution of things, this is after Arafat had died. They were trying to essentially bring these guys in from the cold, get control of them, so I think it is a fair statement.

BY MR. YALOWITZ:

Q All right.

Now, in your report you, you described something called the "PLA."

A Mm-hmm.

Q What was that?

A Palestinian Liberation Army. It was the official military of the PLO.

Q And what happened to the PLA?

A With the signing of the Oslo Accords, it was -- they were essentially brought in as the police and security forces of this new entity in the West Bank/Gaza. Not all of them, incidentally, but a good chunk of them.

Q "By 1997," I think you would agree with me, "because of their coercive capabilities, the various police and security forces were a cornerstone of PA rule."

Isn't that right?

know -- which anti-Israeli terrorists are we talking about?

BY MR. YALOWITZ:

Q Do you -- well, let me give you examples.

"Examples include cooperation between PIJ, Hamas and the PA's general intelligence and preventive security service in the Jenin area to Hakirya, Ramallah and Nablus."

True?

MR. HILL: Objection. Lack of foundation.

THE WITNESS: I am not aware of cooperation, sustained cooperation as a policy between preventive security and that northwest quadrant to the West Bank, and the PIJ and Hamas, as I explained earlier, on an individual basis, I think there are lots of evidence of cooperation between individuals that self-identify as Hamas or self-identify as Fatah or self-identify as something else, but they're neighbors, classmates, what-have-you, and they would fight together against the Israelis during the Second Intifada.

The question you wrote suggests more of

59 (Pages 230 to 233)

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1 an organizational policy, and I'm unaware of that
2 organizational policy.

3 BY MR. YALOWITZ:

4 Q Agree or disagree. I'll read the statement
5 and then you tell me if you agree or disagree.

6 "There is significant evidence of
7 collusion between the Palestinian Authority
8 security forces and anti-Israeli terrorists."

9 MR. HILL: Objection. Lack of
10 foundation. Vague.

11 THE WITNESS: I will disagree,
12 because I think it's a poorly constructed
13 sentence that doesn't mean much on the face
14 of it.

15 BY MR. YALOWITZ:

16 Q Please turn to page 40 of the RAND study.
17 The RAND study, by the way, this is the one we talked
18 about earlier that you were basically the PI for;
19 right?

20 A Essentially, yeah.

21 Q You had a hand in all of the, all of the
22 chapters; right?

23 A Certainly making sure they got done, they
24 were, you know, kind of fit what we were looking for.
25 The content itself was up to the authors themselves.

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1 the word or use the word as they saw appropriately.

2 Now, it does have to pass peer review. I
3 mean it does go out for a review, so it has to pass
4 muster with outside experts.

5 Q So as the PI, did you have a view as to, as
6 to the nature of the anti-Israeli terrorists that are
7 being referred to here in the security chapter?

8 A Well, in the particular sentence that you
9 referred me to, I looked at the underlying documents,
10 these are IDF-captured documents, so the same, the
11 same objection of lack of reliability I would use.
12 The authors of this particular chapter found it
13 persuasive enough, although I wonder if they would
14 now, given all the, the, sort of the interrogation of
15 those documents and the treatment by the IDF, if they
16 would still draw that same conclusion. That's the
17 first point.

18 The second point is I, personally, just as a
19 scholar, won't refer -- and I think it's a little bit
20 sloppy to talk about terrorists as opposed to
21 individuals and groups that use terror as a tactic.
22 It becomes kind of a genetic attribute used in this
23 way, so personally I would not. I would frame it
24 differently.

25 Q So explain -- you gave an answer a moment

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1 Q I think you said some complimentary words
2 about the content of the security chapter early in our
3 conversation.

4 Do you recall that?

5 A I would say complimentary words about the
6 whole study.

7 Q All right. Let's look together at the
8 bottom of page 40.

9 The RAND study says, "Indeed, there is
10 significant evidence of collusion between the
11 Palestinian Authority security forces and
12 anti-Israeli terrorists."

13 Do you see that?

14 A No.

15 Q Take a moment to orient yourself.

16 A Bottom of page 40?

17 Q Very last sentence on page 40.

18 A Oh, carries over to 41 here, okay. Yes, I
19 see it.

20 Q Now, when you were working on the RAND
21 study, was your understanding of the word "terrorist"
22 similar to the one you and I agreed on earlier today?

23 A I don't recall that we as a working group
24 agreed on a specific definition. This would have been
25 up to the specific authors of this chapter to define

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1 ago that talked about evidence that you felt had
2 emerged questioning the ODS -- by "ODS" I mean
3 Operation Defensive Shield -- documents that was not
4 available to these -- to the authors of the study or
5 yourself when it came out in 2005.

6 A Remember, this is written in '03 when I was
7 on leave from MPS. Published in '05. It had to go
8 through a long review process, so yeah, but it was
9 written in '03, so that --

10 Q Published in '05, though; right?

11 A Published in '05.

12 Q Updated. We saw that you had updated parts
13 of it to reflect the events that happened in 2004;
14 right?

15 A There may have been a brief updating to
16 reflect those events. I'd have to look at specific
17 things.

18 Q You mentioned the death of Yasir Arafat;
19 right?

20 A You've given me so many things I published.
21 I mention it somewhere. If you want to point it out,
22 then I'll certainly agree.

23 Q I mean are you saying that you, you think
24 this was written in 2003 and not updated before it was
25 published in 2005 to reflect currently available

60 (Pages 234 to 237)

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1 information?

2 A I'm saying I know it was written in 2003.
3 They may have done a little bit of updating in '04,
4 but remember I had left RAND near the end of '03 to
5 return back to my job at MPS. So the degree of
6 updating they did after that point I don't know, but I
7 know the first -- I mean the first draft of this whole
8 book was completed in '03.

9 Q So remember page -- look at page 21. This
10 is your chapter on governance; right?

11 A Correct.

12 Q And see how you're referring there in the
13 RAND report to the death of Yasir Arafat?

14 A I see I talk about 2004, so yeah, I would
15 have done some updating.

16 Q Right, and, and that's -- I mean that's part
17 of publishing a serious scholarly work; right? As
18 events, important events or important information
19 comes up during the course of the review process or
20 during the time in which it's being reviewed, you
21 would update it to reflect the current learning and
22 facts on the ground; right?

23 A There would be two reasons why some updating
24 of this would have happened in '04. I don't
25 specifically remember it, but I just know the process.

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1 One is as external reviewers reviewed each
2 of the chapters, they would come back with suggestions
3 or critiques, and so the text would be updated to
4 reflect concerns of the reviewers.

5 And secondly, this did take frankly much
6 longer than most RAND studies to actually go from
7 being finished to getting published. It was about a
8 year and a half or so in process, which was much
9 longer than most RAND studies take.

10 Q The authors of the internal security chapter
11 are Kevin Jack Riley and some others; is that right?

12 A Seth Jones, who is still there, and Steven
13 Simon, who's on the National Security Council
14 currently.

15 Q Are these serious people, Kevin Jack Riley,
16 Seth Jones, Steven Simon, David Brandon --

17 A I know Seth Jones and Steven Simon the best
18 of that group, and they were on the ground in Santa
19 Monica for much of the time I was there, and I would
20 characterize them both as serious individuals, yes.

21 Q Scholarly people?

22 A More policy people. Steven Simon doesn't
23 have a Ph.D., although he was in a Ph.D. program at
24 Harvard before leaving it and going into policy work.
25 Seth Jones I believe has a Ph.D., but he has been --

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1 he's been at RAND forever. I don't recall him ever
2 having a job outside of RAND, so much more of a
3 policy -- but serious, I mean he's a serious guy.

4 Q I mean do you think they'd miss an important
5 development?

6 A No. I think they're serious good scholars,
7 which is why we have them in on this report.

8 Q All right.

9 A It doesn't mean I agree with everything they
10 say.

11 Q And is it your belief that they missed the
12 Lagrain study when it came out?

13 A I would want to first talk with them about
14 when any updating of the security chapter went on.
15 Again, this is after I had left RAND to return to my
16 regular job. And I would also want to check the dates
17 of Lagrain and others in terms of when they, and at
18 what point they published criticisms.

19 All I can say is when these documents first
20 came out, first of all, there were only -- I think it
21 was 30 some odd. There was a select number that were
22 released.

23 Dr. Levitt, in his report for you, talks
24 about a half a million documents. I have no idea if
25 that's the actual number. We have no access to them

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1 anymore. I do know that it was a fairly small handful
2 that was released pretty much right away after they
3 were captured. Whoever in the IDF went through them
4 and released a small number.

5 So, you know, is that an important
6 development? Yes, but has time passed and has
7 criticism mounted about the authenticity of those
8 documents and their credibility and what role they
9 should play, particularly given that we don't have
10 access to a whole lot of them, according to
11 Dr. Levitt's numbers?

12 I would say that in '03 we knew a lot less
13 about the critique of those documents than we know
14 sitting here today.

15 MR. YALOWITZ: I'm sorry. What was
16 my question?

17 (Whereupon, reporter reads
18 requested material.)

19 BY MR. YALOWITZ:

20 Q Sitting here today, do you have any
21 knowledge as to whether the scholars on the RAND
22 report missed the Lagrain study?

23 A I don't know one way or the other, for the
24 reasons I just provided --

25 Q Thanks.

61 (Pages 238 to 241)

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1 A -- in my overly long answer.

2 Q I'm just asking questions.

3 Do you agree that Fatah was the main
4 constituent in the Palestinian security services?

5 MR. HILL: Objection. Vague.

6 THE WITNESS: I would agree that
7 people that identified as Fatah and were on
8 Fatah's payroll in general, I mean prior to
9 Oslo, constituted the backbone of the
10 Palestinian police and security forces, yes.

11 BY MR. YALOWITZ:

12 Q Do you agree that armed elements of Fatah's
13 Tanzim forces some -- well, let me ask it again.

14 Let me read a statement and ask if you
15 agree with it. Okay?

16 A All right.

17 Q "Armed elements of Fatah's Tanzim forces,
18 led by the intermediate generation, including Marwan
19 Bargouti, Rashib Abu Shabah and others, held positions
20 in the security forces."

21 MR. HILL: Objection. Vague. Lack
22 of foundation.

23 THE WITNESS: I deal with the issue
24 of Tanzim in my report, and I try and explain
25 in the report that it has multiple meanings.

1 foundation.

2 THE WITNESS: Convicted by the
3 Israelis or by the Palestinians?

4 BY MR. YALOWITZ:

5 Q By the Israelis.

6 A Yes, I am familiar with that.

7 Q And you're aware that members of the PA
8 security services were killed in suicide operations;
9 right?

10 MR. HILL: Objection. Lack of
11 foundation.

12 THE WITNESS: I believe that is a
13 true statement.

14 BY MR. YALOWITZ:

15 Q Do you know whether any members of the PA
16 security services were killed in any of the seven
17 suicide -- in any of the seven attacks that formed the
18 foundation of the case we're here today to discuss?

19 A I do not know.

20 Q Do you know how many members of the PA
21 security services have been convicted of participating
22 in terrorist attacks as you and I have defined it?

23 A Convicted by the Israelis?

24 Q Yes.

25 A I don't know the number.

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1 It has different meanings to different
2 people.

3 The primary meaning of it, to my
4 understanding, and in other words is the way
5 people, and particularly in the West Bank, use
6 the term, is to refer to Fatah -- individuals
7 that had been part of Fatah and were around
8 particularly during the First Intifada, basically
9 been on the ground for a long time, as opposed to
10 those folks that came in from the outside,
11 beginning in '93/'94 with the Oslo Accords.

12 BY MR. YALOWITZ:

13 Q Do you have any opinion about the members of
14 the PA security services who are actually convicted of
15 or killed in suicide operations?

16 MR. HILL: Objection. Vague.

17 THE WITNESS: Yeah, I'm not sure
18 what you're asking.

19 BY MR. YALOWITZ:

20 Q Sure.

21 Are you aware that there were members of
22 the Palestinian security services who were
23 actually convicted of taking part in suicide
24 operations?

25 MR. HILL: Objection. Lack of

1 Q Do you know how many members of the PA
2 security forces are in Israeli jails for having been
3 convicted of security crimes?

4 A I do not.

5 Q Do you -- have you heard that 70 percent of
6 the people involved in the Intifada were part of the
7 Palestinian security forces?

8 A Who makes that claim?

9 Q Well, I'm asking you. Have you ever heard
10 that claim?

11 A No, I have not heard that claim, and it's
12 kind of a silly claim, because what do they mean by
13 "involved"? I mean does protesting at a local check
14 point constitute being involved?

15 Q Do you -- have you ever seen a list of
16 members of the PA security services who are
17 incarcerated in Israel?

18 A I have not.

19 Q The 70 percent statistic, if it were made by
20 a PA politician, what would you think of that?

21 MR. HILL: Objection. Incomplete
22 hypothetical. Lack of foundation.

23 THE WITNESS: I have no idea what
24 to think about it. Again, what does it mean
25 by "involved"? Is it 70 percent of those who

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1 were convicted of violent activities? Is it
2 70 percent of people that, you know,
3 protested at local checkpoints or, you know,
4 settlements? I mean I don't know what it
5 even means. So if you could clarify what it
6 means, then I could maybe say something more
7 intelligent.

8 MR. YALOWITZ: All right. Fair
9 enough.

10 I want to show you a document, which is
11 going to be Robinson Exhibit 14.

12 (Robinson Exhibit 14 was marked for
13 identification.)

14 BY MR. YALOWITZ:

15 Q Do you have Robinson Exhibit 14 before you?

16 A I do.

17 Q And I will represent to you that there's a
18 printout from a website.

19 Can you tell what website it's from?

20 A It's titled (speaking in Arabic), translated
21 as the State of Palestine Police.

22 Q And can you tell me what it is.

23 MR. HILL: Objection. Lack of
24 foundation.

25 THE WITNESS: It's a list of names.

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1 Q I suppose one could.

2 A Yeah, I could count them if you want me to.

3 Q That's all right. We could, I'm sure, agree
4 on the number, whatever it is.

5 Is this a list that you considered in
6 reaching your conclusions and rendering your
7 report?

8 A I have not seen this list before. I'm
9 guessing 50 or 60 names on this list.

10 Does that sound about right to you?

11 Q Can you tell me who the first name is on the
12 list.

13 A Majid Israil Muhammad al-Masri.

14 Q Do you know who he is --

15 A We were talking about him earlier.

16 Q Do you remember who he is or do you know who
17 he is in relation to our case?

18 A I don't recall off the top of my head, no.

19 Q Do you know why he's in prison?

20 A No.

21 Q Do you know why the Palestinian police force
22 lists him on their website?

23 MR. HILL: Objection. Lack of
24 foundation.

25 THE WITNESS: I do not know.

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1 Date of graduation, et cetera.

2 BY MR. YALOWITZ:

3 Q And what is it a list of? Can you tell
4 that?

5 A I presume it is graduates of the police
6 force, the Palestine police force.

7 Q Can you read the Arabic phrase at the top of
8 the list?

9 A (Speaking in Arabic.) Yeah.

10 Q What is that phrase?

11 A I forget what "azra" means. "Shorta" is
12 police.

13 Q And what about the next phrase in the
14 smaller type?

15 A That's the one I'm trying to read. It's
16 very, very small. It's hard to read, frankly, because
17 it is so small, but it's names from the Palestinian
18 police academy in prison -- there you go -- and
19 arrested by the Israeli occupation forces.

20 So here are your list of Palestinian
21 policemen arrested by Israeli forces.

22 Q Can you give me a rough estimate of how many
23 there are?

24 A No. There are a lot on this list. I
25 presume you've counted them yourself.

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1 BY MR. YALOWITZ:

2 Q Do you have any doubt that he is still
3 currently employed by the Palestinian police?

4 MR. HILL: Objection. Lack of
5 foundation.

6 THE WITNESS: I have no way of
7 knowing one way or the other.

8 BY MR. YALOWITZ:

9 Q Do you know who Say'id Ramadan is?

10 A I've heard the name, but no, I couldn't tell
11 you.

12 Q I want to show you a couple of statutes or
13 laws of some kind and just ask if you can help me
14 identify those. So we'll start with a document
15 entitled -- that we'll label Robinson Exhibit 15.

16 (Robinson Exhibit 15 was marked for
17 identification.)

18 BY MR. YALOWITZ:

19 Q Do you have Robinson Exhibit 15 before you?

20 A I do.

21 Q Have you ever seen it?

22 A Not that I'm aware of.

23 Q Is it a document that you considered when
24 you reached your conclusions and rendered your report?

25 A No.

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1 Q Can you tell me what it is?
 2 A It looks like it's a law. Law 19 from 2004.
 3 Q Can you tell me under whose auspices the law
 4 is?
 5 MR. HILL: Objection. Lack of
 6 foundation.
 7 THE WITNESS: I can answer it if
 8 you want me to.
 9 BY MR. YALOWITZ:
 10 Q Yes.
 11 A Okay, it's the president of the Palestinian
 12 national authority.
 13 Q And does it also reflect the PLO?
 14 MR. HILL: Objection. Lack of
 15 foundation.
 16 THE WITNESS: Published in Gaza,
 17 December 27, 2004. Christian era. I
 18 don't -- here we are. Underneath the --
 19 there's a bold strike after the president of
 20 the Palestinian national authority. That's
 21 not actually PLO. It credits the Berzeit
 22 Institute of Law. Berzeit University has a
 23 law institute that is quite good, actually.
 24 I do not see a mention of the PLO here
 25 anywhere.

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1 BY MR. YALOWITZ:
 2 Q Are you able to translate for us article 2
 3 of this law?
 4 A I'd rather have my Hans-Wehr. You know, I'm
 5 going to -- because I won't be able to give a complete
 6 and accurate translation without looking up some
 7 words, I will resist your invitation.
 8 Q All right.
 9 How about article 3?
 10 MR. HILL: What's the question?
 11 BY MR. YALOWITZ:
 12 Q Would you feel comfortable translating
 13 article 3?
 14 A You bolded out the occupation prisons, but I
 15 will give the same answer without being able to give a
 16 complete and full translation.
 17 MR. YALOWITZ: All right. Let's
 18 look at one other one. We'll mark it as
 19 Robinson Exhibit 16.
 20 (Robinson Exhibit 16 was marked for
 21 identification.)
 22 BY MR. YALOWITZ:
 23 Q Do you have Robinson Exhibit 16 before you?
 24 A I do.
 25 Q Can you tell what it is?

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1 A It's an article about the same law here, the
 2 law 19 from 2004.
 3 Q Can you find article 20 with me?
 4 MR. HILL: Article 20 on
 5 Exhibit 16?
 6 BY MR. YALOWITZ:
 7 Q All right. Please turn with me to page 2.
 8 I'm sorry. Do you have page 2?
 9 A I do.
 10 Q Do you see there's an additional legal
 11 document there, starting sort of toward the bottom of
 12 page 2 after the 2004 law?
 13 MR. HILL: Objection. Lack of
 14 foundation.
 15 THE WITNESS: Yeah, in
 16 extraordinarily small print, yes.
 17 BY MR. YALOWITZ:
 18 Q What is it?
 19 A It's a decision by the Council of Ministers
 20 without a number from the year 2006.
 21 Q And by the way, do you know what this
 22 website is, PCDP?
 23 MR. HILL: Objection. Lack of
 24 foundation.
 25 THE WITNESS: It's the Palestinian

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1 Center for the Defense of Prisoners.
 2 BY MR. YALOWITZ:
 3 Q And is that an official PA institute, or is
 4 it like a charitable NGO?
 5 MR. HILL: Objection. Lack of
 6 foundation.
 7 THE WITNESS: Off the top of my
 8 head I don't know. It doesn't have official
 9 markings, but that doesn't necessarily mean
 10 it's not bearing some official status.
 11 BY MR. YALOWITZ:
 12 Q All right. Are you with me on page 2?
 13 A Yes.
 14 Q And can you tell me what the document is
 15 that begins sort of toward the bottom third that's
 16 dated 2006?
 17 MR. HILL: Objection. Lack of
 18 foundation.
 19 THE WITNESS: This is the one I've
 20 already said. The decision by the Council of
 21 Ministers. It does not have a number from
 22 the year of 2006. It appears to be some
 23 addendum to this law in 2006 by the Council
 24 of Ministers.
 25

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1 BY MR. YALOWITZ:

2 Q Can you look with me on page 6. Can you
3 tell me what article 20 is.

4 MR. HILL: Objection. Lack of
5 foundation.

6 THE WITNESS: It appears to be a
7 punishment for various crimes.

8 MR. HILL: The record should
9 reflect that whoever is on the phone is
10 laughing.

11 MR. YALOWITZ: We really need
12 whoever is on the phone to keep their phone
13 on mute, please.

14 BY MR. YALOWITZ:

15 Q Could you look with me at article 9?

16 MR. HILL: Which page are you
17 looking at?

18 BY MR. YALOWITZ:

19 Q Page 5.

20 A Article 9, right.

21 Q Do you have article 9 before you?

22 A Yeah.

23 Q Can you tell me what article 9 provides?

24 MR. HILL: Objection. Lack of
25 foundation.

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ACKNOWLEDGEMENT OF WITNESS

I, Glenn E. Robinson, Ph.D., do hereby
acknowledge that I have read and examined the
foregoing testimony, and the same is a true,
correct and complete transcription of the
testimony given by me, and any corrections appear
on the attached Errata sheet signed by me.

DATE GLENN E. ROBINSON, PH.D.

Signed and subscribed to before me
this ____ day of _____, 2013.

NOTARY PUBLIC

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1 THE WITNESS: I mean it refers to
2 folks inside prison, but again, without -- I
3 don't want to give an incomplete translation
4 without having to look up some words,
5 so . . .

6 MR. YALOWITZ: Okay. Fair enough.
7 Why don't we pause off the record for a
8 moment.

9 (Whereupon, a short recess was
10 taken.)

11 MR. YALOWITZ: Professor Robinson,
12 I am finished with my questions for the day.
13 I will close by saying shukran.

14 THE WITNESS: You're welcome.

15 MR. HILL: The witness will read
16 and sign.

17 By my count, we've spent five hours and
18 50 minutes on the record, so I suggest that we
19 agree that you'll pay Professor Robinson six
20 hours for his time today.

21 MR. YALOWITZ: That sounds fine.

22 (Signature having not been
23 waived, the deposition of
24 GLENN E. ROBINSON, Ph.D. was
25 concluded at 4:38 p.m.)

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ERRATA SHEET

IN RE: SOKOLOW et al vs. PALESTINE LIBERATION
RETURN BY:

PAGE	LINE	CORRECTION AND REASON
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DATE GLENN E. ROBINSON, PH.D.

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ERRATA SHEET

IN RE: SOKOLOW et al vs. PALESTINE LIBERATION

RETURN BY:

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DATE GLENN E. ROBINSON, PH.D.

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CERTIFICATE OF SHORTHAND REPORTER -- NOTARY PUBLIC

I, Laurie Bangart, Registered Professional Reporter, Certified Realtime Reporter, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 8th day of November, 2013.

My commission expires: March 14th, 2016

LAURIE BANGART
NOTARY PUBLIC IN AND FOR
THE DISTRICT OF COLUMBIA

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